

**Building a state on shifting sands: An evaluation of the Palestinian National
Authority's policy reforms and performance in the West Bank, 2009-2011**

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ABSTRACT
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Since the inception of the Palestinian National Authority (PA) in 1994, leadership has struggled in its role to create a safe environment conducive to economic and social prosperity, and to negotiate an end to the Israeli occupation and recognition of an independent State of Palestine. Following a violent Palestinian uprising against the Israeli occupation from 2000 to 2005, the Palestinian legislature crumbled after there was international fallout with the PA over Hamas winning a majority of the legislature seats. Since 2007, Hamas has ruled in the Gaza Strip largely independent of the PA and a Fatah-dominant Palestinian caretaker government has ruled in the West Bank. There have been substantial differences between the trajectory of their economic, geopolitical, legal and social development. In the West Bank, PA leaders unveiled a series of state and institution building plans anchored in a commitment to security that garnered broad international support.

This thesis provides a historical account of the development of the PA institutions and the limits of its authority in the West Bank and Gaza Strip. The primary research aim of this thesis is to evaluate the effectiveness of the state and institution building plan, *Ending the Occupation, Establishing the State*, in the West Bank during the 2009-2011 period in regards to the security landscape, judicial system, and economic development in the West Bank, as well as the attempt to end the occupation and solidify recognition as a sovereign Palestinian state. Underlying pressures on state building in Palestine are identified and this thesis presents a strategy for Palestinian leadership so that when it comes to the negotiating table with Israel, it will be as a respected, organized and united body that has enacted all measures possible to guarantee the degree of peace and prosperity that are within their control. While Palestinians' ultimate aim is statehood recognition and an end to the Israeli occupation, this thesis argues that reforming the Israeli-Palestinian economic framework is a critical first step to advancing Palestinian national interests and state and institution building aims.

EXECUTIVE SUMMARY

Introduction and History

The primary research aim of this thesis is to evaluate the effectiveness of the state and institution building plan, *Ending the Occupation, Establishing the State*, in the West Bank during the 2009-2011 period in regards to the security landscape, judicial system, and economic development in the West Bank, as well as the attempt to end the occupation and solidify recognition as a sovereign Palestinian state.

Understanding the history of the Israeli-Palestinian conflict is paramount to understanding and analyzing current efforts. An account of the historic developments leading up to the modern-day Israeli-Palestinian conflict is detailed in the thesis. Currently, the West Bank is one of the two territories that make up the contended Palestinian state that have been occupied by Israel since the 1967 Six-Day War.

Upon the Israeli occupation of Palestinian lands, which in the years prior to the Six-Day War had been controlled by Jordan and Egypt, Israel annexed East Jerusalem and Israelis began moving onto the land and establishing settlements in violation of the Fourth Geneva Convention. Notably, the Government of Israel (GoI) insisted that the West Bank and Gaza Strip were captured in a defensive war and therefore the GoI had legitimate claims to ownership and should not accommodate Palestinians claims to the land. Relative calm prevailed for the first twenty years of the occupation and then unrest between Palestinians and Israelis erupted in 1987 into the first Palestinian uprising against the occupation, known as the First Intifada. A few years into fighting, Israel was willing to cede some control over the West Bank and Gaza Strip to Palestinians. By 1993, the GoI and representatives of the Palestinian Liberation Organization (PLO) officially brought the conflict to an end with the signing of the Oslo Accords. The parties agreed to a temporary framework for their relations during an interim period lasting five years, during which time, the sides would agree on important issues such as borders, refugees, Jerusalem, and settlements through bilateral negotiations.

The Accords resulted in the creation of an interim Palestinian governing body known as the Palestinian National Authority (PA). The PA assumed some of the responsibilities of a typical governing body in parts of the West Bank and Gaza Strip (WBGS), while Israel retained other powers and overarching control over security. One of the key documents produced in the Oslo Accords was the Protocol on Economic Relations (PER), which governed economic relations between the PA and the GoI.

The development process was slow and complicated, and was further challenged by inept and corrupt Palestinian leaders. Both the GoI and the PA showed a reluctance to implement the terms of the Oslo Accords, which had negative repercussions on the lives of Palestinians in the WBGS. Palestinians grew frustrated with Israeli policies, such as the expansion of settlements and restrictions on Palestinian movement. These frustrations, along with an interim period much longer than expected during which time the PLO and GoI failed to reach a peace agreement, culminated in the Second Intifada in 2000, which had a strong negative impact on Palestinian and Israeli lives and stalled important state building work in Palestine. The Second Intifada came to an official end in 2005, and the PA found a more competent leader in Mahmoud Abbas, who replaced the deceased Yasser Arafat as president. The rise of Mahmoud Abbas ushered in a new type of Palestinian leadership. Abbas set out to reform the PA, to strengthen Palestinian institutions, and to engage diplomatically with Israel to improve living conditions for Palestinians and advance Palestinian goals.

However, when the political party Hamas won a majority of the Palestinian Legislative Council (PLC) seats in 2006, the situation in the West Bank and Gaza Strip quickly deteriorated. The international community, especially the United States (U.S.) and GoI, boycotted the election results and cut funding to the PA because the winning political party, Hamas, was designated as a terrorist organization in these countries. A series of contentious events followed, resulting in a sharp divide and armed conflict between Hamas and Fatah and the dissolution of the PLC. In 2007, Abbas appointed the American-trained and former International Monetary Fund (IMF) economist Salam Fayyad to serve as Prime Minister of a caretaker government in the West Bank, which gained legitimacy and wide international support for its proposed reform agenda, while the majority of the international community increased the intensity of the boycott and sanctions on the Hamas-led government in the Gaza Strip. Under the leadership of Fayyad and Abbas, the PA set out to implement a state and institution building plan that it believed would help end the Israeli occupation and advance Palestinian national aspirations including widespread recognition of an independent Palestinian state along 1967 borders with East Jerusalem as its capital.

Judiciary Reforms and Performance

During the Oslo era, the PA assumed responsibility for legal jurisdiction in areas of its control through the signing of the Gaza-Jericho Agreement on May 4, 1994, and the subsequent

creation of the PLC. The Palestinian judiciary was responsible for interpreting and helping enforce laws and beginning in 2002, it was guided by the Palestinian Basic Law (an interim constitution). The nascent Palestinian judicial system largely performed poorly during the 1990s, being marked by corruption, fixed trials, and a lack of enforcement of court decisions.

The PA, through the caretaker government in the West Bank, committed to reforming the justice sector by delivering on promises of an independent and impartial judiciary, which was mandated in the Palestinian Basic Law and reaffirmed in the 2009-2011 *Ending the Occupation, Establishing the State* plan. The PA advanced many of its broad judiciary goals during the reform years 2009-2011, some of which included promulgating and implementing laws to protect citizens' fundamental rights and freedoms, improving justice sector performance through legal reforms, and making small advances towards ensuring the separation of powers. A few notable reforms include the creation of the Palestinian Penal Code and the Palestinian Juvenile Justice Law; the establishment of a Customs Court; banning military courts from prosecuting civilians; the recruitment and training of judges; more cases being tried and enforced in a timely manner; and making the judge selection process more transparent in addition to rotating them to reduce conflict of interest. Public perceptions of the justice system improved and participation in the courts increased. It will take time for many of the PA's judiciary reforms to make a wide impact with regards to improving the rule of law in the West Bank.

Corruption and nepotism have long been commonplace in Palestinian courts, and the PA and other bodies took bold steps to curb its prevalence during the reform years. Building on existing legislation, the PA passed the Anti-Corruption law, created an Anti-Corruption court, established an Anti-Corruption Commission, and developed a code for political parties. The PA also allowed Transparency International to establish chapters in the West Bank and Gaza Strip, which have been instrumental in changing perceptions towards corruption and in engaging the public in combating corruption.

The PA is responsible for two critical failures in relation to the judiciary during the reform years. The PA did not hold presidential and legislative elections as prescribed by law and the PLC was never in session. One of the PLC's responsibilities is to provide important oversight and checks and balances to the Palestinian executive branch, which includes approving the annual budget. The executive branch has not had its budget approved by the PLC since it last convened in 2007 and in its absence, the PA has relied on controversial presidential decrees to make legislative changes.

In order to carry out elections and resume the PLC, Palestinians must first end the internal factional divide. The PA will then be able to unify judicial processes in the West Bank and Gaza Strip and streamline overall processes. Advancing these aims should be part of a larger strategy by the PA to address internal and external obstacles to sustainable long-term social and economic prosperity for Palestinians.

Once the PLC convenes, one of its first orders of business should be to create legislation to clarify roles and responsibilities, especially within the Ministry of Justice, the High Judicial Council, the Attorney General's office, and the Supreme Council. These changes should reduce overstaffing and reduce the inflated and financially unsustainable PA wage bill. The PLC should also establish an independent mechanism to oversee the Palestinian Security Forces, ensuring all forces are following the rule of law.

Security Reforms and Performance

In 1995, the newly formed Palestinian Security Sector began assuming responsibility for security in the Gaza Strip and parts of the West Bank. Eventually, it assumed full responsibility for internal security, public order, and civil affairs in the Gaza Strip and 17.2 percent of the West Bank, known as Area A, which included densely populated cities. In 23.8 percent of the West Bank, known as Area B, the PA assumed full responsibility for civil affairs and public order while the GoI maintained responsibility for security. The GoI maintained full control over security, public order, and civil affairs in 59 percent of the West Bank, known as Area C, which contained agricultural land, nature reserves, Israeli settlements, designated military reserves, the Jordan Valley, and large tracts of land where Bedouins roamed. Israel retained responsibility for security in and surrounding Israeli settlements, as well as overarching control over security in the West Bank.

The security arrangements made through the Oslo Accords promised to protect Palestinian welfare and the ability of Palestinians to move freely within the WBGS and between the West Bank and Gaza Strip. However, the security agreements related to Palestinian welfare and freedom of movement were overridden by critical caveats built in the Accords that gave priority to Israeli security interests. Hence, since the inception of the Oslo Accords, Palestinian security and movement within the WBGS have been subject to change, based on Israel's perceived security needs.

Enactment of the 2002 Palestinian Basic Law led to the abolishment of the unconstitutional Palestinian Security Court and the practice of trying Palestinian civilians in military tribunals. In the

Ending the Occupation, Establishing the State plan, the PA pledged to hold its security apparatus accountable to an independent judiciary and other oversight bodies and to provide its security forces with the training, equipment, and infrastructure it needed to improve their performance.

Overall, security improved remarkably in the West Bank because of the PA's initiatives during 2009-2011. Daily policing improved, crime was reduced, and discontent with the occupation was increasingly channeled through the nonviolent resistance movement. At the same time, the operational area of the Palestinian Security Forces (PSF) was expanded and the economy was growing, both of which had a positive impact on Palestinians' sense of security and reduced the likelihood of renewed conflict. In light of improved security and in an effort to support Palestinian economic growth, Israel removed hundreds of roadblocks and dozens of checkpoints to support Palestinian business activity and economic growth during the reform years.

Security challenges persisted, however, particularly by some members of Hamas who were committed to using violence against Israelis. The GoI reported sustained high levels of Palestinian terrorist activity against Israeli targets in the West Bank and the Jerusalem Area in 2009 and 2010, the majority of which were occurrences of stone throwing by Palestinian youth and adults.

While security improved considerably in the PA's jurisdiction within the West Bank, security was not extended to all Palestinians, and largely excluded those who challenged the PA or were affiliated with Hamas. Those Palestinians faced ill treatment by the PSF and the legal system, despite guarantees of freedom of opinion and affiliation in the Basic Law and a commitment to stem human rights abuses by the PA in its *Ending the Occupation, Establishing the State* plan. Further, Israeli Defense Forces (IDF) forces carried out operations in areas under PA jurisdiction, revealing that it was not fully confident in the ability of the PSF, and reduced Palestinians' sense of security.

The GoI, the U.S., and the European Union provided planning, financing, and training to the PA to help it achieve its security aims, and the heavy external influence is evident by the priorities of the PA's security reform agenda. The U.S. was particularly keen on financing and training the PSF, as part of an overall strategy to provide enhanced security for its strongest ally in the region, Israel. U.S. budgetary security assistance to the PA totaled US\$150 million and U.S. military aid to Israel totaled US\$3 billion in 2011. Cooperation between the IDF and the PSF rose to unprecedented levels during these reform years.

The responsibility for security was shared between the GoI and Palestinian forces. The GoI administered security in the majority of the West Bank and all of East Jerusalem, sometimes jointly with the PSF; Hamas controlled security in the Gaza Strip with unwanted incursions by GoI forces

on the basis of mediating security threats; and the PA administered security in Area A. The security situation outside of the PA's control during the reform years could be described as perilous at best.

Palestinian leadership in the Gaza Strip allowed and even encouraged violence towards Israel. Those violent actions have been a serious impediment to social and economic progress and prospects for peace with Israel, and they undermine the PA's security achievements in the West Bank. Palestinians faced ill treatment—either physically or to their property—by the GoI and Israeli settlers, and were afforded few protections by the Israeli justice system. Further, despite the reduction in barriers to movement, the GoI maintained an expansive system of restrictions on Palestinian movement, including the separation barrier between the West Bank and Israel, to provide increased security particularly for the 650,000 Israelis living in settlements in the West Bank and East Jerusalem as well as to Israelis throughout Israel. The separation barrier continued to be built during the reform years, despite a ruling by the International Court of Justice in 2004 deeming the separation barrier illegal and calling for its removal. The system of restrictions to movement reduced Palestinians' sense of freedom and personal security as they prevented them from accessing their land, engaging in commerce, and carrying out daily activities.

While the PA security establishment improved in many ways, the PA's security reform efforts in the West Bank were short-sighted. The mistreatment of Palestinians by Palestinian and Israeli security forces and their inadequate legal systems, along with actions by Israeli settlers, all negatively impact Palestinian livelihood and sense of security, which threaten to undermine security gains and incite discontent amongst Palestinians. The PA should offer the people under its jurisdiction more protections and should seek further influence or control over security in all parts of the WBGS and extend protection to all Palestinians. It should start by taking steps to moderate Hamas, end the factional divide, hold elections and reinstate the PLC, and ultimately renegotiate the security arrangements with the GoI so that it assumes more control over the security and well-being of all Palestinians in the WBGS and East Jerusalem.

Economic Reforms and Performance

Economic Trends

The PA identified a strong, sustainable, active, and efficient economy as the foundation of a capable, independent Palestinian state and it aimed to create such an economy through the implementation of its *Ending the Occupation; Establishing the State* plan. It aimed to improve fiscal

management and create an environment conducive to creating job opportunities in the private sector and curb the PA's exceptional dependency on foreign aid.

The West Bank experienced impressive economic growth, which was largely a rebound from the depressed level caused by the Second Intifada and a byproduct of aid and an abundance of jobs in Israel and the settlements that may not be sustainable. Growth during the reform years in the West Bank was 12 percent, 9.5 percent, 7.6 percent, and 5.8 percent in 2008, 2009, 2010, and 2011 respectively. Some of the other factors contributing to GDP growth during 2009-2011 include a lack of significant conflict, a reduction in Israeli restrictions on movement, an improvement in Palestinian courts, expedited property registration within the PA's jurisdiction, faster contract enforcement, and new measures to protect investors.

The types of economic activities were gradually shifting in the West Bank during the reform years. Traditional agriculture continued to become less viable as Palestinians had increasingly less access to land amidst growing Israeli settlements in Area C. Manufacturing experienced a slight rebound but was largely stagnant after years of relative decline while jobs in the construction, transportation, and communication sectors experienced growth. Many construction jobs were held by Palestinians who commuted to Israel or the settlements in the West Bank. Employment of Palestinians in those areas constituted ten percent of all Palestinian employment in 2011, down from 16.2 percent in 1995. There, they earned on average more than double the pay of PA employees in the West Bank. Another source of construction jobs was in the first Palestinian planned city, Rawabi. During the reform years, approximately 2,500 Palestinian workers were employed there. Unemployment in the West Bank fell slightly during the reform years yet remained high, falling from 19.7 percent in 2008 to 17.3 percent in 2011.

Palestinian information and communications technology (ICT) businesses were a small but growing part of the private sector in the West Bank. The Palestine Telecommunication Company (PalTel) served as the largest private sector employer in Palestine during the reform years, with 3,000 employees and US\$800 million in assets in 2011. The Middle East Venture Capital Fund supported the ICT sector, providing it with financing and exposure to international markets through the Palestinian venture capital fund it created in 2011. Israeli restrictions limiting frequencies for existing and potential wireless networks, and import and building restrictions hampered ICT expansion efforts.

The micro, small and medium-sized enterprise (MSME) sector dominated private sector employment in the West Bank during the reform years. External technical assistance helped many MSMEs engage in trade for the first time, and these efforts should be increased.

PA Economic Policies

Many PA policies and reforms had a positive impact on the Palestinian economy during the reform years. The PA adopted wide-ranging reforms to its public financial management system and the Palestine Central Bureau of Statistics, the Ministry of Finance, and the Palestine Monetary Authority improved transparency by providing more quality data in a timely manner.

The PA encouraged local and foreign investment in Palestine by an amendment to the Law on the Encouragement of Investment in Palestine in 2011, which provides incentives for smaller businesses and the service sector, including tax breaks for investments. The law created the Palestinian Investment Promotion Agency, which works with investors and formulates investment policy.

The World Bank's *Doing Business* reports consistently ranked the WBGS favorably with regards to the ease and cost of payment of taxes and protecting investors. The 2012 *Doing Business* report noted that the PA was making strides in the realms of property registration, court processing times, the ease of starting a business, and securing financing. For example, the PA reduced the average court processing time from 700 days in 2009 to an average of 540 days in 2012. However, this processing time is still far too long and remains an impediment to business. Overall, the WBGS ranked 131 out of 183 economies surveyed in 2012 in the *Doing Business* rankings. The World Bank only began providing rankings for the West Bank and Gaza Strip in 2011, so a long-term observation of *Doing Business* ranking trends in the WBGS was impossible. Further, the report does not distinguish between practices in the West Bank and Gaza Strip or identify how Israeli policies impact the rankings.

PA Shortfalls and Future Economic Opportunities

During 2011, it became clear that the economic reforms envisioned in the *Ending the Occupation; Establishing the State* reform plan were far from being met. The international community indicated its willingness to finance PA efforts throughout the reform years for strategic

development, infrastructure building, and operational costs so that the PA could expand its capacity, particularly in the judicial and security sectors. The PA's initial development plan aid requests were much larger and more easily met in earlier reform years, yet by 2011 it faced a very different reality. The PA was able to cover its financing gap of US\$1.9 billion in 2008 largely through donor monies and partly through borrowing from banks. In 2011, however, it was difficult to obtain the US\$1.1 billion it needed to cover the financing gap, in part because regional socio-economic factors created an environment in which many of the pledges that were previously financing the reform and development process suddenly went unfulfilled. The PA resorted to borrowing large sums of money from domestic banks to avoid a large scale default to its employees and suppliers. The private sector was not yet developed enough to shoulder any of the burden caused by funding shortfalls.

While the PA made strides towards fiscal retrenchment during the reform years, in 2011 it remained solidly reliant on external assistance and it had not substantially replaced its dependency on external assistance with revenues from a burgeoning private sector. Delays in border clearance transfer revenues from Israel exacerbated the PA's financial strains. One of the strains on the PA budget during the reform years was the wage bill for public sector employees, which grew during the reform years, notably in the security and education sectors. While the nominal wage bill fell as a percentage of GDP from 21.8 percent in 2009 to 18.2 percent in 2011, it constituted an unsustainable portion of employment in Palestine at wages twice the level of an underdeveloped private sector.

The PA should implement further policy changes to create a more inviting investment environment to stimulate private sector growth. It can do this by reducing the costs to start a business; enforcing contracts; developing a system for businesses to resolve insolvency; strengthening the business legal environment by reconvening the PLC; increasing access to reliable electricity; ensuring clear titles to property; lowering the price of state land available for purchase; and expanding efforts to curb rent-seeking and corruption.

Other Influences on the Palestinian Economy

In addition to the PA's efforts to attract investment in Palestine, Palestinian agencies promoted and enabled investment during the reform years. These agencies include the Palestine Investment Fund, which provides loans to businesses and banks and invests in industrial zones; the Middle East Investment Initiative, which provides business and home loans along with risk insurance to businesses; the Middle East Venture Capital Fund, which provides tech companies with risk

capital and access to international markets; and the Palestinian Securities Exchange, which promotes investment in Palestinian companies. The work of these agencies helped the PA achieve a strong *Doing Business* rating of 46 out of 183 economies in 2011 with regard to protecting investors. Recent PA efforts and the initiatives of the aforementioned organizations should lead to increased investment in Palestine and employment in the coming years.

The Palestinian Non-Governmental Organization (PNGO) sector had a large and important role in the West Bank and Gaza Strip during the reform years and attracted hundreds of millions of dollars annually from the international community, especially from Europe and the U.S. PNGOs provided employment and served public needs but their prevalence presented some significant challenges and threats to the economy in Palestine. PNGOs are largely foreign financed, and employers often provided salaries higher than what the private sector could offer, constituting another impediment to private sector growth.

The PA and PNGOs in the WBGS are vulnerable because of their high aid dependency. This unsustainable situation could quickly deteriorate without continued financing, resulting in the collapse of the Palestinian economy. Further, the role of external actors in Palestinian state building has not been neutral or always positive. While some actors in the international community are driven to provide external assistance in the WBGS by a belief that they are supporting the peace process, some critics of aid argue that the funds may have a limited impact on the peace process, and actually contribute to subsidizing and enabling an illegal Israeli occupation.

Limitations on the Economy

The Palestinian economy remains fragile and vulnerable to Israeli as well as Palestinian government policies. During the reform years, the World Bank consistently argued in its Economic Monitoring Reports to the Ad Hoc Liaison Committee that the main constraints to private sector investment and sustainable economic growth are Israeli restrictions on natural resources and markets and Israeli-imposed restrictions on movement in the WBGS that increase the cost of doing business for investors, especially in Area C.

Israeli settlements, outposts, and surrounding land; military bases and closed military areas; Israeli-declared nature reserves; and related infrastructure constitute 38 percent of Area C, and are largely off limits to Palestinians. While Area C was never highly populated by Palestinians (with approximately 150,000, or six percent of West Bank Palestinians living in Area C in 2012), more and

more Palestinian Bedouins and agriculturists are moving off the land because of the general insecurity and instability associated with living there. Proving ownership of land, avoiding land confiscation for Israeli public needs, being able to access and work on land owned, obtaining building permits, having sufficient access to water and other resources, and limited protection in the Israeli justice system all constitute significant challenges to Palestinians' continued presence in Area C and have contributed to their displacement or relocation to other areas of the West Bank.

Within Area C, the Jordan Valley is an area ideal for agriculture and Dead Sea mineral extraction for cosmetics, industries already developed by Israeli settlement communities that have benefitted the Israeli economy. Israeli restrictions have prevented Palestinians from developing this land. In 2012, Oxfam estimated the land's economic contribution "could be US\$1 billion a year to the Palestinian economy, or 9 percent of gross domestic product."

Further, Israeli settlements on West Bank land have a mixed effect on the Palestinian economy. While much of the land is no longer available for Palestinian-led development, with a permit, Palestinians can attain well-paid jobs in one of the 136 Israeli settlements in the West Bank and East Jerusalem.

Constraints relating to the Protocol on Economic Relations severely limit the potential of the Palestinian economy. The GoI has not followed through with some of the key commitments it made through the PER, which negatively affected the Palestinian economy during the reform years. The GoI denied the PA the right to be present at border crossings; failed to notify the PA before making changes to Israeli import policies including tax rates; denied the PA full authority to implement its own import policy at international border crossings; restricted the PA's right to set its own petroleum products policy; delayed the approval of goods at borders that are already approved for trading; and discriminated against Palestinian importers. These policies, along with the GoI's decision not to recognize PA trade agreements with international bodies and states aimed at reducing barriers to trade, resulted in delays and added costs for Palestinian traders. In 2010, the WBGS had about seven times more imports than exports, reflecting restrictive policies by the PA and GoI, and the copious aid inflows.

One of the central features of the PER is the system it set in place for the collection and transfer of taxes on goods entering the West Bank. The GoI collects these taxes and transfers them to the PA monthly. These revenues are critical to the PA's budget and in 2011, they constituted 70 percent of the PA revenues and 46 percent of the budget overall. However, this primary PA revenue source has proven to be a source of financial instability to the PA because of the way in which the

transfers have been implemented. While the PER arrangement clearly stipulates that Israel will transfer the taxes and clearance revenues in a timely manner, the GoI delayed the transfer of funds to the PA multiple times during the reform years for political reasons. Further, leakages at the borders have been a consistent concern by the PA, GoI, IMF, and World Bank. During the reform years, the Ministries of Finance of the PA and GoI identified actions to reduce leakages. Many of these actions involve the implementation of aspects of the PER. Palestinian traders have notoriously underreported declarations to avoid value added taxes (VAT) and the GoI has had a poor track record of questioning dubious declared values on WBGS-bound goods. Allowing PA officials to be present at border crossings will enable the PA to more vigorously collect copies of receipts for imports from traders, which the PA is required to share with the GoI in order to get VAT funds the GoI collects at borders. Increasing the amount of real time data on trade between Israel and the WBGS shared by Israel through electronic interfaces will also reduce leakages. The implementation of the Ministries of Finance plans was stalled once Palestinian political factions reached a controversial reconciliation agreement in 2011. Implementing these changes to the collection system could result in big increases in revenues for the PA. The IMF reported that a five percent increase in clearance revenues would have increased the PA's 2012 budget by US\$75 million.

Summation and Suggestions

Through the implementation of the state and institution building plan, improvements in the security and judicial sectors in the West Bank from 2009-2011 have enabled noteworthy social, political, and economic progress including increased participation in the justice system and increased implementation of rulings; the promulgation of legislation that has resulted in accountability for politicians engaged in corruption; reduced crime; steps taken towards reconciliation between the primary political parties Hamas and Fatah; and economic growth and a reduction in unemployment.

The resulting reforms to security in the West Bank have given the PA credibility as a capable government. Inter-state bodies and states have acknowledged the competence of the caretaker government, while in 2011 the United Nations Educational, Scientific and Cultural Organization (UNESCO) joined the list of member state organizations that have granted recognition of Palestine as an occupied State, including the UN Asia-Pacific Group, the UN Economic and Social Commission for Western Asia, and the League of Arab States and the Organization of the Islamic Conference. Most notably, the UN General Assembly admitted the PLO as a nonmember state in 2012.

During the reform years, a burgeoning ICT sector, aided by domestic and international support, revealed an area of great potential for the Palestinian economy. Investment in the tech field and entrepreneurship is critical to Palestinian economic growth and should be highly encouraged with a domestic campaign involving early education skills development around fields such as software engineering and website design. Considering that web and software design fields are an opportunity to create a national brand with an export that is not subject to checkpoints and export controls, taking actions to support this industry is an innovative way to circumvent the controls that Palestinians face while gaining national attention and respect.

Moving forward, the PA should focus on creating a policy environment that will attract investment in sectors such as ICT and simultaneously work to address the critical underlying constraints to state and institution building efforts in the West Bank that were revealed during the evaluation of the PA's effort from 2009-2011. Many of these constraints relate to the antiquated Oslo Accords agreements that continue to govern the PA's modus operandi. For example, limitations on use of land, restrictions on movement, a Palestinian and Israeli justice system that often do not protect the rights of Palestinians, and a trade regime dominated by Israeli interests reflect Israel's overarching powers over the Palestinian economy and security sector and threaten Palestinian state and institution building efforts. Palestinian leadership failures have also placed major constraints on the Palestinian state and institution building process.

In addition to the aforementioned influence of aid and the influence of PNGOs, the following examples illustrate the exceptionally high levels of involvement and influence in Israeli-Palestinian issues by the international community. College campuses and civil society groups worldwide are participating in and advocating Boycott, Divestments Sanctions (BDS) as a means to put economic pressure on Israel to end its occupation of Palestinian lands. Further, the 2006 boycott of a Palestinian government that included Hamas played a significant role in the internal fraction of the Palestinian political groups Hamas and Fatah, which continues to plague Palestinian efforts to end the occupation and gain recognition of a State of Palestine. The UN and its agencies have had a central role in Palestinian and Israeli statehood recognition and member states have exerted influence on the evolving conflict and peace process since its inception in 1945. Certain countries such as the U.S. and Britain have had a strong role in the historical development of the modern-day Israeli-Palestinian conflict and their governments insert their own agenda on the peacemaking process. For example, the U.S. has prevented efforts that would bring about accountability to actors in the conflict or promote an end to the conflict through its veto power in the United Nations Security Council. It

insists the PLO and the GoI should resolve the conflict through direct, bi-lateral negotiations, while the U.S. government simultaneously maintains a controversial mediator role between the parties. One of the most critical ways the international community has had on Palestinian state and institution building is through its role in deciding Palestinian statehood status. In 2012, 138 out of 195 independent countries recognized a State of Palestine, with many of the most powerful countries withholding recognition. The acceptance of a State of Palestine to member state organizations such as UNESCO has also made an impact on Palestinian statehood status and recognition.

While Palestinians' ultimate aim is statehood recognition and an end to the Israeli occupation, reforming the Israeli-Palestinian security and economic framework is a critical first step to advancing Palestinians' national interests and state and institution building aims, which require negotiations with the GoI. The PA should adopt a strategy so that when it comes to the negotiating table with Israel, it will be as a respected, peaceful, organized, and united body.

In order to earn the trust and respect of Israelis, Palestinians must provide Israel with security by continuing efforts in the West Bank and holding Palestinians in the Gaza Strip accountable for the violence they allow and enable. Reigning in violence in the Gaza Strip will require the caretaker government to earn the respect and partnership of Hamas. One of the ways it can do this is by implementing measures to extend protection and freedom of speech to Hamas members living in the West Bank. Once Hamas commits to nonviolence, the PLO should seek to establish a peace council made up of key representatives, including those from Egypt, Israel, the U.S., and the EU, with strong representation from Palestinians including Hamas to show the international community and Israel that Palestinians are serious about nonviolence and peace. The PA's leading role in the creation of the Council would give it positive public relations (PR) and it would humanize the PA leadership in the eyes of the primary supporters of Israel. The Council is an easy way to utilize international pressure to bring the primary supporters of both sides to the table so that they feel like they can trust their counterparts.

Upon the creation of the peace council, the PLO should hire an international PR firm. The PR firm can assist Palestinians in developing a rebranding strategy, emphasizing the (to be) reformed Hamas and long-standing peace efforts by Palestinian groups.

The PR strategy should involve a PR campaign and engage diplomats and domestic leaders. Palestinian diplomats could reach out to constituent groups that have traditionally viewed Palestinians negatively or as a people not wanting peace with Israel and that provide political and financial support for Israel. The Palestinian diplomats could embark on what could be labeled as an

“information and idea seeking” campaign to engage stakeholders, especially those in the U.S., and to humanize the Palestinian cause. This step would put pressure on the U.S. political leaders to support Palestinian peace efforts, which would in turn create an environment where both the U.S. government as a primary military and strategic partner, and the Western Jewish community as a primary fundraising and economic support partner, would be encouraging Israel to actively and seriously engage in the Palestinian initiated peace efforts.

At this point, Palestinian leadership, in conjunction with the efforts of the PR firm, should seek the removal of a reformed Hamas from the terrorist group list maintained by the U.S. and Israel and Hamas should formally join the PLO. Simultaneously, Palestinian leadership and the PR firm should endeavor to ensure that the PLO, with Hamas’s inclusion, does not get reprimanded or negatively labeled. The PA should, at this point, agree to form a joint caretaker government for all Palestinian-ruled areas. Then, the PA should hold presidential and legislative elections open to all political parties.

These actions may culminate with the objective of bringing Israel to the table to renegotiate the Oslo Accord agreements, especially the PER, in a serious and meaningful way to address underlying security and economic concerns that will give the PA more control over its own security and economy. Palestinians should aim to gain economic freedoms that allow Palestinians to increase economic independence and prosperity, which is necessary to guarantee Israeli and Palestinian security and is a prerequisite to further statehood recognition and an end to the Israeli occupation.

DEDICATION

I dedicate this thesis to my grandmother, Betty Jo Gamber. While she did not have the chance to finish high school or write a book about her life as she always wanted to, she encouraged her children and grandchildren to pursue a formal education. During my childhood at her farmhouse, I have fond memories of her reading, watching CNN, or talking about bold political leaders she respected. I hoped some day to understand the world in the way that she did. Grandma's curiosity, empathy, and interest in politics rubbed off on me, for which I am grateful.

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I would like to thank my amazing family who showed endless amounts of patience and understanding during my long writing sessions that interfered with family obligations. Andrea, your positive attitude was just what I needed. Mom, Judy, Kelly, and Grandma Pat, I have always felt your support and love, for which I am grateful.

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List of Acronyms

| | |
|------|---|
| AHC | Arab Higher Committee |
| AHLC | Ad Hoc Liaison Committee |
| ALAC | Advocacy and Legal Advice Center |
| AMAN | Coalition for Integrity and Accountability |
| CA | Civil Administration |
| DOP | Declaration of Principles |
| EU | European Union |
| FNMD | Palestinian Facility for New Market Development |
| GDP | Gross Domestic Product |
| GNP | Gross National Product |
| GoI | Government of Israel |
| HJC | High Judicial Council |
| ICT | Information and Communications Technology |
| IDF | Israeli Defense Forces |
| IMF | International Monetary Fund |
| JAL | Judicial Authority Law |
| JEC | Joint Economic Committee |
| JSC | Joint Security Coordination and Cooperation Committee |
| MAS | Palestine Economic Policy Research Institute |
| MEII | Middle East Investment Initiative |
| MENA | Middle East North Africa |

| | |
|--------|--|
| MEVCF | Middle East Venture Capital Fund |
| MoF | Palestinian Ministry of Finance |
| MoJ | Palestinian Ministry of Justice |
| MSME | Micro, Small and Medium-Sized Enterprises |
| NIS | Israeli New Sheqel |
| NGO | Non-Governmental Organization |
| OECD | Organisation for Economic Co-operation and Development |
| PA | Palestinian National Authority |
| PIF | Palestine Investment Fund |
| PLC | Palestinian Legislative Council |
| PMA | Palestine Monetary Authority |
| PNA | Palestinian National Authority |
| PNGO | Palestinian Non-Governmental Organization |
| PEDCAR | Palestinian Economic Council for Development and Reconstruction |
| PER | Paris Protocol on Economic Relations |
| PIPA | Palestinian Investment Promotion Agency |
| PLC | Palestinian Legislative Council |
| PLO | Palestine Liberation Organization |
| PR | Public Relations |
| PRDP | Palestinian Reform and Development Plan |
| PSF | Palestinian Security Forces |
| SJC | Supreme Judicial Council |
| UN | United Nations |
| UNESCO | United Nations Educational, Scientific and Cultural Organization |
| UNCTAD | UN Conference on Trade and Development |
| UNSCO | United Nations Special Coordinator Office for the Middle East |
| UNSCOP | United Nations Special Committee on Palestine |
| UNRWA | United Nations Relief and Works Agency for Palestine Refugees in the Near East |
| US | United States of America |
| USAID | United States Agency for International Development |
| USSR | Union of Soviet Socialist Republics |
| VAT | Value Added Tax |
| WBGS | West Bank and Gaza Strip |

CHAPTER ONE

Introduction to the Thesis

“The establishment of an independent, sovereign, and viable Palestinian state is fundamental for peace, security and stability in our region. Palestine will be a peace-loving state that rejects violence, commits to co-exist with its neighbors, and builds bridges of cooperation with the international community.”¹

---Salam Fayyad, Palestinian National Authority Prime Minister

Central Objectives of the Thesis

Following the second Palestinian uprising against the Israeli occupation from September 2000 through early 2005, the Islamic Resistance Movement (Hamas) participated in the Palestinian Legislative Council elections in 2006 and won a majority of the seats, upsetting decades of Fatah political dominance.² A series of contentious events followed, resulting in a sharp divide and conflict between Hamas and Fatah.³ In the new era of Palestinian disunity, Hamas ruled in the Gaza Strip largely independently of the Palestinian National Authority (PA) and Fatah ruled through a Palestinian caretaker government in the West Bank.⁴ Map 1 includes a large map of the West Bank and a smaller map that includes Israel, the Gaza Strip, and the West Bank.⁵

¹ Excerpt in Foreword of the Palestinian National Authority’s *Ending the Occupation, Establishing the State* Program of August 2009.

Palestinian National Authority. *Ending the Occupation, Establishing the State*. Program of the Thirteenth Government, Palestinian National Authority, 2009.

² For a brief history of the Palestinian political groups Hamas and Fatah, see Appendix A.

³ In 2007, the main Palestinian political factions fractured. The president declared a state of emergency and formed an interim caretaker government to lead the Palestinian National Authority in the West Bank. A detailed account of the fracture and its consequences are included in chapter three.

⁴ Pursuant to the Oslo Accords, the Palestinian Liberation Organization formed the Palestinian Authority (later renamed Palestinian National Authority). The PA was to serve as an interim body to govern parts of the West Bank and Gaza Strip and exist no more than five years while a final peace agreement between Israel and Palestinians was negotiated. The term Palestinian National Authority and Palestinian Authority are used interchangeably throughout this thesis.

Map 1: Palestinian West Bank, February 2011



Source: UN OCHA. "West Bank: Area C Map." United Nations OCHA, February 2011.

Khan, Mushtaq H. "Introduction: State Formation in Palestine." In *State Formation in Palestine: Viability and Governance during a Social Transformation*, edited by George Giacaman, Inge Amundsen, Mushtaq H. Khan, 11-12. London: Routledge Curzon, 2004.

⁵ The West Bank is one of the two Palestinian Territories that make up the contested State of Palestine that has been occupied by Israel since the 1967 Six-Day War. It is located on the west bank of the Jordan River and on its west, north, and south is Israel. Jordan lies to its east. The Gaza Strip is the other Palestinian Territory and it lies on the Eastern coast of the Mediterranean Sea. The Gaza Strip borders Egypt on the southwest and Israel on the south, east, and north. The West Bank and Gaza Strip have a combined population totaling 4 million, with approximately 2.6 million Palestinians residing in the West Bank and 1.6 Palestinians million residing in the Gaza Strip as reported in 2012. While the IDF and Israeli settlers are prevalent in the West Bank, Israeli settlers and the IDF left the Gaza Strip in September 2005, though the IDF maintained control over its borders, maritime and airspace. Therefore, the United Nations Security Council, some countries and humanitarian organizations continued to consider the Gaza Strip occupied by Israel. Annex B discusses Palestinian statehood.

With the support of the international community but independent of the Hamas-led government in the Gaza Strip, the caretaker government for the PA crafted and unveiled a series of plans that outlined goals and policies aiming to “restore good governance, the rule of law and socio-economic stability” and bolstering its claims to statehood.⁶

Crafted with the help of international financial institutions, the caretaker government contended that implementation of its state and institution building endeavor would advance Palestinians’ goals of ending the occupation and the Israeli-Palestinian conflict, and result in recognition of an independent, sovereign and viable Palestinian state on the pre-war 1967 borders, also known as the Green Line, with East Jerusalem as its capital.⁷ The PA’s efforts to strengthen its statehood claims through a state and institution building endeavor while still under occupation proved to be a newsworthy and ambitious goal that attracted both proponents and opponents worldwide. For an account of the evolution of Palestinian national aspirations, see Appendix A.

The status of Palestinian statehood is a contentious issue, and states and member-state bodies disagree over its status. An entity is considered a state when it gains recognition as a state by other states. Those states loosely base their decision on whether an entity is a state by criteria laid out in the 1933 Montevideo Convention on the Rights and Duties of States. The Montevideo criteria for a state holds that an entity must have: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states to be a state. The majority of the world’s states recognize Palestine as a state and many important international bodies have

⁶ See Palestinian Reform and Development Plan (2008), Ending the Occupation, Establishing the State (2009), Homestretch to Freedom (2010) and Establishing the State, Building our Future (2011).

IMF. *West Bank and Gaza*. Overview Note, International Monetary Fund (IMF), 2011.

Turner, Mandy. “The Power of ‘Shock and Awe’.” *International Peacekeeping* 16, no. 4 (2009): 572.

In the Armistice Agreements of 1949, Israel and neighboring Jordan and Egypt set demarcation lines between Israel and the occupied territories, which are known as the “Green Line.” The Green Line continued to be referenced after Israel occupied the West Bank and Gaza Strip in 1967. The demarcation line is not a permanent border, but is referenced as a starting point for negotiations of a border for a State of Palestine.

⁷ The Israeli-Palestinian conflict has been ongoing at varying intervals since the end of the nineteenth century and has centered on claims to the same land. The majority of Palestinians and Israelis advocate a two-state solution resulting in a mutual recognition of a Palestinian and Israeli state as a means of resolving the conflict.

accepted Palestine as a state. Based on these criteria, it seems that a State of Palestine exists, though this contentious issue is ultimately left up to individual states to decide. In November 2012, 138 of the world's 195 independent states recognize a state of Palestine and voted to recognize Palestine as a non-member sovereign state of the United Nations (UN). Other states have given implicit recognition by engaging in diplomatic relations with the Palestine Liberation Organization.⁸

Throughout this thesis the terms West Bank Gaza Strip (WBGs), Palestine and State of Palestine are used interchangeably to describe the occupied State of Palestine. Palestinian statehood is discussed further in Appendix B.

The primary research aim of this thesis is to evaluate the effectiveness of the PA's state and institution building plan, *Ending the Occupation, Establishing the State*, during 2009-2011. Specifically, this thesis will: (i) provide an historical account of the establishment of a joint Israeli-Palestinian governance framework and state and institution building efforts in Palestine: (ii) evaluate the effectiveness of the PA's efforts to implement the *Ending the Occupation, Establishing the State* plan in regards to the security landscape, judicial system, and economic development in the West Bank, as well as the attempt to end the occupation and solidify recognition as a sovereign Palestinian state; and (iii) formulate a strategic trajectory for the PA that will make the best use of time and resources to advance the PA's national interests and state and institution building aims.

Rationale for the Thesis

A wide variety of audiences may be interested in this research. Academic disciplines that could be enriched by this research include political science, international studies, peace and conflict studies, history, business, military, economics, sociology, security, non-violent resistance, and justice studies. This research may be of interest to the various contributors to the Palestinian state and institution building initiatives. Many actors, including states, nongovernmental organizations (NGOs)

⁸ United Nations General Assembly. "General Assembly overwhelmingly accords Palestine 'non-member observer' state status in United Nations." *United Nations GA/11317*. United Nations General Assembly, 2012.

and multilateral institutions have invested diplomatic, military, technical, and economic resources to help the PA achieve its state and institution building aims.⁹ The World Bank, International Monetary Fund (IMF), United States of America (U.S.), European countries, Arab countries, and the Government of Israel (GoI) are the largest contributors of financial and technical assistance to the PA and have a strong interest in its success.

The U.S., the GoI, and the PA have been the primary actors working towards a negotiated resolution to the conflict, and this research would be of particular interest, both to the governments and the individual citizens. Further, an analysis of the implementation of the plan and its results will allow one to determine if the PA's plans are the appropriate trajectory and best use of time and resources to advance Palestinians' national interests.

Stability in the Middle East was shaken during the "Arab Spring," and the world's reaction to Palestinian statehood claims will have important implications for stability between Israelis and Palestinians, and more broadly, regional stability.¹⁰

As previous U.S. administrations have done, the Obama Administration has made the Israeli-Palestinian peace process a priority and accepted an influential and controversial mediator role between the GoI and the PA.¹¹ It is therefore crucial for the U.S. administration and special interest lobbyist groups that exert influence over the U.S. administration to be well informed on Palestinian state and institutional developments, in order to determine the PA's readiness as a partner for peace with Israel.

Amidst competing claims to legitimacy between Palestinian political constituents, a critique of the PA's state and institution building efforts is particularly important. Such a critique should be of particular interest to Palestinian citizens, whose daily lives are impacted by the PA's plan and

⁹ An NGO is a private organization that is independent from government control.

¹⁰ The Arab Spring is a revolutionary wave of demonstrations and protests that began taking place in parts of the Arab world in December, 2010.

¹¹ The PLO and others contend that America's influence has been less than even handed, and particularly favorable to Israel, making its influential role as a mediator between the two controversial.

strategy, and who have a stake in the success of the state building program as a means to improve their livelihoods, expand their freedoms, advance recognition of a State of Palestine, and advance a resolution to the Israeli-Palestinian conflict.

This information is relevant to peoples seeking international state recognition in occupied territories such as the Golan Heights, Tibet, Cyprus, Jammu and Kashmir, Abkhazia, and South Ossetia. This research is informative to other groups of people who have declared independence but have not been able to attain UN membership or recognition by most major states, including the Kurdish, Tamil, Chechen, and the Oromo peoples.¹²

The thesis provides particularly timely information to all states and interstate bodies that have not yet accorded statehood recognition to Palestine. This thesis may provide states and interstate bodies with the information needed to determine if Palestine fulfills statehood criteria. It is therefore crucial for the U.S. administration and other states to be well informed on Palestinian readiness for statehood based in part, by a critical analysis of the implementation of its state and institution building plan.¹³

Methodology

The method used to conduct this research is a review and analysis of primary and secondary materials. Materials were identified by searching online databases and a variety of government websites. Primary sources include Palestinian and Israeli government data, along with data provided by the World Bank, the UN, and the IMF. The chief secondary source is books. This research also utilizes academic journal articles and a small amount of news reports, such as from *The Jerusalem Post*.

Whenever possible, the West Bank will be studied and analyzed as a separate entity from the Gaza Strip because of the substantial differences between the trajectory of their economic,

¹² *Unrepresented Nations and Peoples Organization*. 2011-2012. <http://www.unpo.org> (accessed August 15, 2012).

¹³ Abukhater, Maher. West Bank: *Palestinians determined to get more recognition*. LA Times, August 13, 2011.

geopolitical, legal and social development, and because of the limited amount of data on the Gaza Strip. However, some data included in this thesis does not distinguish between the West Bank and Gaza Strip.

Chapter two deals with the Oslo Accords, including the creation of the PA and the authorities transferred to it from the GoI, and the implementation of the Oslo Accords. This information provides the framework for present-day governance issues in Palestine.

Chapter three reviews significant events and policies following the Oslo Accords and their effects on the PA's state and institution building efforts. The Second Intifada, peace attempts, the rise of Hamas, the Palestinian Civil War, and the introduction of the PA's 2009-2011 state and institution building plan, *Ending the Occupation*, *Establishing the State* are reviewed.

Chapter four analyzes the PA's stated judicial policy goals in *Ending the Occupation*, *Establishing the State* and their implementation. Chapter five analyzes the PA's stated security policy goals in *Ending the Occupation*, *Establishing the State* and their implementation. Chapter six analyzes the PA's stated economic policy goals in *Ending the Occupation*, *Establishing the State* and their implementation, and their effects on the economy and the people. This chapter also includes a detailed account of economic performance in the West Bank during 2009-2011. An overview of the international response and financial support for the plan is also included.

The concluding chapter, chapter seven, summarizes the research and findings; outlines to what extent recent reforms and economic performance in the West Bank are sustainable, identifies opportunities and impediments the PA faces in advancing its state and institution building agenda, and presents a proposed Palestinian strategy to reform the Israeli-Palestinian economic framework.

Appendix A includes an historic account of the peoples who have lived in Palestine and the claims they have to the land; an overview of key historic events in Palestine; identifies the key nationalist groups that have emerged; and documents the evolution of Palestinian nationalism.

Appendix B explores what constitutes a state and how entities become recognized as states, identifies

Palestine as a state, and identifies obstacles and opportunities for the PA in achieving further recognition of a State of Palestine. Appendix C includes the text of the Balfour Declaration; Appendix D includes the text of UN Resolution 242; and Appendix E includes key initiatives in the *Palestinian Reform and Development Plan, 2008-2010*.

Limitations and Future Research

This thesis is limited in its scope. An analysis of state and institution building in the West Bank during 2009-2011 should be complimented by a similar analysis of state and institution building policies in the Gaza Strip. This future research would provide a comprehensive picture of state building challenges, achievements, and failures in Palestine. An analysis of state and institution building initiatives in the Gaza Strip would prove to be more difficult as there is less data available to the public.

Some historical economic data was unavailable that would have provided a better means to evaluate long-term trends in the Palestinian economy.

This thesis included a limited discussion of borders, settlements, and refugees, all of which are large concerns for the PA and international community that should be addressed in tandem with economic and security negotiations with the GoI.

CHAPTER TWO

Building the Structures of a Palestinian State

“Today the leadership of Israel and the Palestine Liberation Organization will sign a declaration of principles on interim Palestinian self-government. It charts a course toward reconciliation between two peoples who have both known the bitterness of exile. Now both pledge to put old sorrows and antagonisms behind them and to work for a shared future shaped by the values of the Torah, the Koran, and the Bible.”¹⁴

---U.S. President Bill Clinton remarks at the signing of the Israeli-Palestinian Agreement

In order to evaluate *Ending the Occupation, Establishing the State* and its implementation, it is necessary to review the creation of the Palestinian National Authority (PA) and the authorities transferred to it from the GoI, which have implications for present-day reform efforts. While the PA was intended to be a transitional governing body in the West Bank and Gaza Strip (WBGs) when it was created in 1994, in the absence of a peace settlement between the Palestine Liberation Organization (PLO) and the GoI, the PA continues to share governing responsibilities with the GoI in the WBGs.¹⁵

The Oslo Accords: Establishing a Governance Framework

In the midst of ongoing conflict during the First Intifada from 1987 to 1993, for the first time in the 1990s, Palestinian and Israeli representatives initiated diplomatic negotiations aimed at ending the conflict and establishing a recognized Palestinian state with agreed upon borders.¹⁶ The talks were encouraged by and in part facilitated by influential states, including the U.S., the Russian

¹⁴ “Bill Clinton Remarks at the Signing of the Israeli-Palestinian Agreement.” Charlottesville: Miller Center at the University of Virginia, September 13, 1993.

¹⁵ The international community deems the PLO to be the sole representative of the Palestinian people. The establishment of the PLO and how it has evolved to serve Palestinian nationalist aspirations is discussed in detail in Appendix A.

¹⁶ See Appendix A for a brief history of the First Intifada.

Federation, and key Arab states. The readiness of the PLO and the GoI to engage in negotiations was supported by some Israelis and some Palestinians. This development gave promise to many Palestinians that they would at last have a fully internationally recognized Palestinian state; however, the negotiations were not supported by all segments within Israeli and Palestinian societies.¹⁷ Many Israelis were not supportive of engaging in peace talks with the PLO, which had openly supported violence against Israelis as a means to end the occupation and stake claims to the land of Israel. Further, many Palestinians and Israelis did not accept the UN partition plan resulting in a Palestinian state and Israeli state side by side as a statehood model for Palestinians and Israelis. For example, some Palestinians, such as members of Hamas, called for the destruction of Israel and for a State of Palestine in the entire area of the former Palestine Mandate.¹⁸ Some Haredi Jews claim the state of Israel is illegitimate and aim to establish communities in Israeli settlements in the WBGS.¹⁹ Other Israelis insisted that the West Bank and Gaza Strip were captured in a defensive war and therefore the GoI had legitimate claims to ownership and should not accommodate Palestinians claims to the land. Other Palestinians and Israelis advocated for a bi-national state that would encompass the current State of Israel, the West Bank, and the Gaza Strip.

Prior to the initiation of negotiations, many Palestinians wanted Israeli reassurances of compensation or repatriation for Palestinian refugees from the 1948 war, as required by UN Resolution 194, and as the GoI agreed to do when it was accepted to the UN in 1949. Palestinians also wanted a halt in Israeli settlement building in the WBGS before engaging in peace talks, which was not achieved.²⁰

¹⁷ See Appendix B for an explanation of how the Oslo Accords and resulting Palestinian government structures led to the creation of a State of Palestine, albeit with limited recognition by other states and entities.

¹⁸ See Appendix A for a discussion on the UN partition plan and Palestine Mandate.

¹⁹ Haredi Jews (also known as Ultra-Orthodox Jewry) constitute the most conservative form of Orthodox Judaism and have not adopted Zionist ideology. Haredi Jews claim that the State of Israel is illegitimate, believing that no formal government should exist in Israel before the Messiah comes and reestablishes a Jewish kingdom.

²⁰ Freedom House. *Palestinian Authority-Administered Territories [Israel] 2003*. Freedom House, 2012.

Quigley, John. *The Statehood of Palestine: International Law in the Middle East Conflict*. New York: Cambridge University Press, 2010, 172-173.

The Madrid Peace Conference included the first major yet unofficial and unsuccessful peace talks, during which PLO representatives for the first time engaged in talks representing the Palestinian people.²¹ Then, despite public reservations, the PLO and GoI hastily agreed that a resolution to the Israeli-Palestinian conflict and permanent status issues, notably Palestinian sovereignty, would be accomplished through official diplomatic negotiations between the PLO and the GoI, facilitated by the U.S., which would be based on UN Security Council Resolutions 242 and 338 and would take place within a five-year timeframe to be completed by May 1999.²² The parties' commitment put into effect the Declaration of Principles (DOP) on Interim Self-Government Arrangements on September 13, 1993 (also known as the Oslo Accords), which ended the First Intifada.²³

The Accords allocated some of the most difficult issues between the parties to permanent status negotiations.²⁴ This historic effort was marked by deep concessions by both parties. The PLO, representing the majority of Palestinians, publicly acknowledged its willingness to accept limited autonomy in the WBGS, recognize Israel's existence and its right to live in peace, accepted UN Security Council Resolutions 242 and 338, and rejected violence.²⁵ The GoI recognized the PLO as

UN General Assembly Resolution 194 was passed in December 1948 and affirmed that Palestinian refugees should be permitted to return to their homes, known as the "right of return." Article 11 of the resolution reads: (The General Assembly) Resolves that the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities made responsible."

²¹ (Muslih 2005, 92)

²² (Guide to the Middle East Peace Process n.d.)

"The Israeli-Palestinian Negotiations." *Israel Ministry of Foreign Affairs*.

<http://www.mfa.gov.il/MFA/Peace%20Process/Guide%20to%20the%20Peace%20Process/Israel-Palestinian%20Negotiations> (accessed May 12, 2012).

²³ (Freedom House 2012)

(Quigley 2010, 172-173)

²⁴ Declaration of Principles on Interim Self-Government Arrangements. *The State of Israel*. September 13, 1993. http://www.knesset.gov.il/process/docs/oslo_eng.htm. (accessed December 2, 2012).

²⁵ See Appendix A for the history and significance of UN Security Council Resolution 242 and see Appendix D for the full text of the Resolution.

UN Security Council Resolution 338 was created in Response to fighting between Israeli and a coalition of Arab states in the Yom Kippur War in 1973. The resolution also called for the "implementation of Security Council Resolution 242 (1967) in all of its parts; Decides that, immediately and concurrently with the cease-fire, negotiations

the sole representative of the Palestinian people and accepted the idea of a two-state model. The GoI also expressed a willingness to have U.S.-brokered direct face-to-face negotiations with the PLO and relinquish some control of the WBGS to Palestinians in exchange for peace.²⁶ Following the signing of the DOP in Oslo, an Ad Hoc Liaison Committee (AHLC) was established on October 1, 1993 by the Multilateral Steering Group of the multilateral talks on Middle East peace. The AHLC seeks to promote dialogue between donors, the PA and the GoI.²⁷

The parties made subsequent arrangements for the interim Palestinian government. Table 1 outlines the details of the arrangements.

start between the parties concerned under appropriate auspices aimed at establishing a just and durable peace in the Middle East.”

²⁶ (Quigley 2010, 175)

²⁷ “Ad Hoc Liaison Committee (AHLC).” *Local Development Forum*, 2011. <http://www.lacs.ps/article.aspx?id=6> (accessed February 16, 2012).

Established in 1993, the Ad Hoc Liaison Committee (AHLC) is a 15-member committee that serves as the principal policy-level coordination mechanism for development assistance to the Palestinian people. The AHLC is chaired by Norway and co-sponsored by the EU and US. In addition, the United Nations participates together with the World Bank (Secretariat) and the International Monetary Fund. The AHLC seeks to promote dialogue between donors, the PA and the GoI.

Table 1: Oslo Accords Arrangements

| DECLARATION OF PRINCIPLES Washington, D.C. - September 13, 1993 | | | |
|--|--|--|---|
| STAGE I Interim Self-Government Arrangements | | | STAGE II Permanent Status |
| Gaza-Jericho Agreement Signed: May 4, 1994 | Transfer of Powers Signed: Aug 29, 1994 | Interim Agreement Signed: Sept 28, 1995 | Permanent Status Agreement |
| Withdrawal of Israeli administration and forces from Gaza and Jericho, and the transfer of powers and responsibilities to Palestinian Authority. The Agreement includes: | Early transfer of powers and responsibilities in specified spheres, in those parts of the territories not included in the Gaza-Jericho Agreement. These spheres include: | Comprehensive agreement on the transfer of powers and responsibilities in the West Bank from Israel to an elected Palestinian Council. Milestones of implementation: | Agreement finalizing the relationship between Israel and the Palestinians, as follows: |
| <ul style="list-style-type: none"> Security arrangements Transfer of civil affairs Legal framework Economic framework | <ul style="list-style-type: none"> Education and Culture Health Social Welfare Direct Taxation Tourism Other spheres as agreed | <ul style="list-style-type: none"> Dec 31, 1995: redeployment from population centers in West Bank. Jan 20, 1996: Elections to the Palestinian Council. Jan 17, 1997: redeployment from Hebron. Oct 23, 1998: Wye River Memorandum. Stage 1 of further redeployment implemented Nov 20, 1998. Sept 4, 1999: Sharm el-Sheikh Memorandum. * Stages of implementation | <ul style="list-style-type: none"> Talks to begin no later than 3rd year of interim period (May 1996) (DOP) Issues to include: Jerusalem, refugees, settlements, security arrangements and borders (DOP) Agreement to enter into force after 5th year of Self-Government (DOP) Permanent status talks resumed (Erez, Sept 13, 1999) according to the Sharm el-Sheikh Memorandum |

Source: (Guide to the Middle East Peace Process n.d.)

Gaza-Jericho Agreement

As part of the Oslo Accords Agreements, on May 4, 1994, the GoI and the PLO signed the Gaza-Jericho Agreement, which stipulated the withdrawal of the Israelis in the Civil Administration (CA) and forces from the Gaza Strip and the West Bank city of Jericho.²⁸ With the support of a Joint Civil Affairs Coordination and Cooperation Committee, the PA assumed these powers and responsibilities. Included in the agreement were four annexes, outlining security arrangements, transfer of civil affairs, a legal framework, and an economic framework.

By May 18, 1994, the CA in the Gaza Strip and Jericho was dissolved and its powers were transferred to the PA. The GoI maintained ultimate responsibility for security functions in Israeli settlements, for the roads leading to the settlements and in adjacent areas, and over external security and overall security.²⁹ The PA created a Palestinian police force that assumed internal control in the Gaza Strip and Jericho area. In the realm of legal matters, the agreement provided the nascent PA legislative, executive and judicial powers and responsibilities within its territorial, functional and personal jurisdiction (the Gaza Strip and Jericho Area), with the exception of Israeli citizens in these areas.

The Gaza-Jericho Agreement contains important agreements relating to the powers of the judiciary and to the economy. Annex IV of the Gaza-Jericho Agreement is an agreement on economic relations between the GoI and the PA that the parties signed in Paris a few days before they signed the Gaza-Jericho Agreement and is known as the Paris Protocol on Economic Relations (PER). The PER provided a framework for interim economic relations between the GoI and the PA

²⁸ In 1981, the Civil Administration was established as the governing body in the West Bank and Gaza Strip under the authority of the Israeli Defense Forces to administer Palestinian civilian life in those areas.

Karlsson, Ingela. "What is the Civil Administration?." *Diakonia*. March 18, 2018

<http://www.diakonia.se/sa/node.asp?node=853> (accessed December 2, 2012).

A discussion of the 1948 war and the resulting displaced persons is included in Appendix A.

²⁹ (Muslih 2005, 302)

and is the single most important agreement for Palestinian economic potential, specifically with regards to trade and financing for the PA.³⁰

Transfer of Powers

On August 29, 1994, the GoI and the PLO entered into an agreement, known as “The preparatory transfer of powers and responsibilities,” which entailed the GoI transferring more powers to the PA within the jurisdiction of the Gaza Strip and the West Bank city of Jericho. The primary spheres of authority of transfer included: education and culture, health, social welfare, and taxation. Whereas many tax matters had been dealt with in the PER, the parties made further agreements in this realm. Specifically, the Transfer of Powers allowed the PA to engage in indirect taxation in the form of a value added tax (VAT) on local production in the West Bank and excluding Israeli settlements and Israeli military locations.

The PA and Israeli government recognized there would be a shortfall in the collection of taxes during the period in which the PA established its own revenue collection system and jointly approached donor countries to seek funding for the shortfall.³¹

Protocol on Further Transfer of Powers and Responsibilities

On August 27, 1995 the GoI and the PLO signed the Protocol on Further Transfer of Powers and Responsibilities, which resulted in the GoI transferring more powers to the PA within the jurisdiction area of the Gaza Strip and Jericho. The primary spheres of authority of transfer included:

³⁰ “Gaza-Jericho Agreement Annex IV: Protocol on Economic Relations between the Government of the State of Israel and the P.L.O., representing the Palestinian people.” *Israel Ministry of Foreign Affairs*. April 29, 1994. <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Gaza-Jericho+Agreement+Annex+IV+-+Economic+Protoco.htm?> (accessed March 4, 2012).

³¹ “Agreement on Preparatory Transfer of Powers and Responsibilities.” *Israel Ministry of Foreign Affairs*. August 29, 1994. <http://www.mfa.gov.il/MFA/Peace%20Process/Guide%20to%20the%20Peace%20Process/Agreement%20on%20Preparatory%20Transfer%20of%20Powers%20and%20Re> (accessed April 3, 2012).

labor, commerce and industry, gas and petroleum, insurance, postal services, local government, and agriculture.³²

Interim Agreement

The PLO and GoI signed the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (also known as the Oslo II Agreement) in September, 1995. This agreement superseded the Gaza-Jericho Agreement; the Agreement on Preparatory Transfer of Powers, and the Protocol on Further Transfer of Powers and Responsibilities, though most of their provisions were incorporated into this agreement. The main points of the agreement were included in seven annexes dealing with: security arrangements, elections, civil affairs (transfer of powers), legal matters, economic relations, Israeli-Palestinian cooperation, removal of some Israeli checkpoints, and the release of some Palestinian prisoners from Israeli jails. Article XXIV reaffirmed the parties' commitment to economic relations based on the Protocol on Economic Relations (PER) and Annex V was a supplement to the PER. Through this agreement, the PLO agreed to revoke articles of the Palestinian Covenant calling for the destruction of Israel.³³

The Agreement extended the PA's jurisdiction from the Gaza Strip and Jericho to additional areas in the West Bank. The agreement established different arrangements for three types of area: Area A, Area B, and Area C.³⁴ The Agreement called for the PA to assume full responsibility for internal security and public order as well as full responsibility for civil affairs within Area A.³⁵ Within Area B, the Agreement called for the PA to assume full responsibility of civil affairs and

³² "Protocol on Further Transfer of Powers and Responsibilities." *Israel Ministry of Foreign Affairs*. August 27, 1995. <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Further+Transfer+of+Powers+and+Responsibilities.htm> (accessed April 3, 2012).

³³ "The Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip." *Israel Ministry of Foreign Affairs*. September 28, 1995. <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/THE+ISRAELI-PALESTINIAN+INTERIM+AGREEMENT.htm> (accessed April 3, 2012).

³⁴ Pappé, Ilan. *A History of Modern Palestine: One Land, Two Peoples*. New York: Cambridge University Press, 2004, 276.

³⁵ Excluded in Area A are the Old City of Hebron, the Jewish Quarter, and everything that is linked from there to Kiryat Arba and the Tomb of the Patriarchs. (Israeli-Palestinian Interim Agreement 1995)

public order, with the GoI maintaining responsibility for security. Within Area C, the Agreement called for the GoI to maintain full control over security and administration, but some powers and responsibilities of the Israeli military government and CA would be transferred gradually over 18 months from the time of agreement to Palestinian jurisdiction. Area C was less densely populated than Areas A and B, containing agricultural land, nature reserves, Israeli settlements, designated military areas, Palestinian Bedouin communities, and the Jordan Valley.³⁶

The agreement increased the PA's responsibilities and territorial control, and called for the election of a self-governing authority with legislative and executive powers, which took place in early 1996.³⁷ This governing body would become known as the Palestinian Legislative Council (PLC) and it promulgated secondary legislation, including regulations and new legislation, though the GoI was given veto power over the legislation. The PLC assumed the responsibilities of the Israeli Civil Administration in all of the West Bank within the PA's areas of jurisdiction, except for the powers and responsibilities not transferred to the PA, and the Israeli military government was withdrawn and replaced by Palestinian security forces. Additionally, the PA "established a military-court system based on a penal code that the PLO had used in exile."³⁸

The agreement called for the creation of a Liaison Committee to ensure the smooth implementation of the agreement. With representatives of the PA and GoI meeting regularly and steering the activities of sub-committees, the Liaison Committee could foster cooperation and peaceful relations. The subcommittees included: Joint Civil Affairs Coordination and Cooperation

³⁶ Palestine Economic Policy Research Institute (MAS) and the World Bank. "Recent Political Developments." In *Development under Adversity – The Palestinian Economy in Transition*, by Rex Brynen, edited by Radwan A. Shaban and Ishac Diwan. Washington, 1999, 39.

³⁷ Elections were agreed to be open to Palestinians living in East Jerusalem, the West Bank and Gaza Strip. Israel retained jurisdiction in Jerusalem, Israeli settlements, Israeli military locations, and over Israeli citizens.

³⁸ (Quigley 2010, 214)

Committee, Joint Economic Committee, and Joint Regional Civil Affairs Subcommittees, one for the Gaza Strip and the other for the West Bank, and District Civil Liaison Offices in the West Bank.³⁹

The Interim Agreement established that permanent status negotiations would commence no later than May 4, 1996 between the parties and would cover remaining issues including the status of Jerusalem, refugees, right of return, water, settlements, security arrangements, borders, relations and cooperation with other neighbors, and other outstanding issues of mutual interest.⁴⁰

While Palestinian Security Forces were mandated to take over control within Palestinian jurisdiction, Article III: 4 of the agreement established that “Israel shall continue to carry the responsibility for external security, as well as the responsibility for overall security of Israelis for the purpose of safeguarding their internal security and public order.”⁴¹

Criticism of the Oslo Accords

The Oslo Accords have been controversial since they were agreed to by the PLO and the GoI. Critics have targeted both the contents of the Accords and the degree to which the PLO and the GoI followed through on the commitments they made in the Accords. It is important to note the criticisms of the Accords since it is the present-day framework the PA is working within.

The most prevalent criticism levied at the PLO by Palestinians was its failure to secure a freeze on the growth of Israeli settlements.⁴² While this was an objective of the PLO, it made this concession in part because of the difficulty in getting the GoI to agree to and implement it and because of the historic opportunity for the PLO to be recognized by the GoI as the sole legitimate

³⁹ (Israeli-Palestinian Interim Agreement 1995)

⁴⁰ (Israeli-Palestinian Interim Agreement 1995)

⁴¹ (Israeli-Palestinian Interim Agreement 1995)

⁴² See Appendix A: Palestinian National Aspirations after 1948: The 1967 War for a discussion on Israeli settlements in the WBGS and their legal status.

representative of the Palestinian people. Instead of building a restriction on building settlements into the Oslo Accords, the PLO agreed to leave the issue of settlements to final status negotiations.⁴³

Another criticism of the Accords by some Israeli critics and others relates to the continued, though changed nature of the Israeli occupation. Ben-Gurion University of the Negev's Professor Neve Gordon argues that the creation of the PA was a way for the GoI to outsource the work of managing the Palestinian population, basically serving as a subcontractor, while the GoI continued the occupation and expansion of Israeli settlements on Palestinian land.⁴⁴ Director of Research at the Foundation for Middle East Peace in Washington, D.C. Geoffrey Aronson, disagrees, arguing the agreement created a cooperative partnership between Palestinians and Israelis, saying, "Two striking aspects of Israeli-Palestinian reconciliation stand out in this interim agreement: it transforms Israel's "belligerent" rule over Palestinians into a partnership operating with Palestinian consent, and it repudiates what Prime Minister Rabin had called the "hallucination" of Greater Israel fostered by a generation of Labor and Likud politicians. In this agreement, diplomacy has created an extraordinary, cooperative order between Israelis and Palestinians."⁴⁵

Stephanie Koury, a research fellow at the University of London, argues that the PLO sacrificed some Palestinian rights by law through agreeing to the Oslo Accords. She writes: "The PLO's decision to enter the Oslo Agreements even without such legal references as the Fourth Geneva Convention or the right of return undermined consensus over a law-based approach to resolution of the conflict and the applicable legal framework."⁴⁶

Political Scientist and researcher Inge Amundsen and researcher and Professor Basem Ezbidri pointed out that opposition groups also boycotted the Oslo peace process saying, "Major opposition

⁴³ Rothsten, Robert L., Moshe Ma'oz, and Khalil Shikaki. *The Israeli-Palestinian Peace Process: Oslo and the Lessons of Failure*. Great Britain: Sussex Academic Press, 2002.

⁴⁴ Gordon, Neve. *Israel's Occupation*. Berkely, Los Angeles, and London: University of California Press, 2008, 169.

⁴⁵ Aronson, Geoffrey. "To Withdraw Without Withdrawing." *Settlement Report* 5, no. 5 (September-October 1995).

⁴⁶ Stephanie Koury, "Legal Strategies at the United Nations: A Comparative Look at Namibia, Western Sahara, and Palestine." in *International Law and the Israeli-Palestinian Conflict*, edited by Susan M. Akram et al. New York: Routledge, 2011, 165

groups, Hamas and Al-Jihad, were rooted ‘inside’ [the WBGS] and they disputed the PLO’s mandate to represent all Palestinians. While the PLO embarked on a process established by the Oslo arrangement, the Islamic opposition groups actively, sometimes even violently, boycotted that process.”⁴⁷

Implementation of the Accords

Since the creation of the PA and state institutions, both the GoI and the PA have been responsible for operations within the WBGS (though Hamas took control of Gaza in 2007), frequently with different goals and objectives and sometimes working against instead of with each other, while Palestine remains under occupation and the PA remains accountable to the GoI.⁴⁸ Institutional development necessitated the continued participation of the GoI, which could be perceived as complicating the process, helping the process, or both. The Oslo Accords equipped the PA with some of the tools it needed to maintain law and order and security through training and the gradual redeployment of Israeli forces but the monumental task of maintaining security for a people wanting to end an occupation proved exceedingly difficult for not only the GoI, but for the PA.

While the PA was working to establish a legitimate government and authority for the Palestinian people, it faced significant public pressure to seek independence from the GoI. This pressure placed on the PA is unique from many other Arab states and post-conflict and transitioning governments, which didn’t operate under an active occupation by another country. However, transitional governments under a colonial power have faced similar state building experiences and pressures.

⁴⁷ Amundsen, Inge, and Basem Ezbidi. “PNA Political Institutions and the Future of State Formation.” in *State Formation in Palestine: Viability and Governance during a Social Transformation*, edited by Mushtaq H. Khan, George Giacaman and Inge Amundsen. London: Routledge Curzon, 2004, 154.

⁴⁸ Israel disengaged from the Gaza Strip in September 2005; however, Israel retains control of airspace, territorial waters and most of the Gaza Strip’s borders. Without effective control, the UN, Human Rights Watch, and many organizations consider the Gaza Strip under Israeli occupation.

The Accords called for elections for the position of president as well as the creation of the PLC. Despite Hamas' status as a powerful political party with a promising outlook in the 1996 elections and the only serious counterweight to Fatah, Hamas boycotted those elections, not wanting to give legitimacy to the PA, which Hamas felt was created through unacceptable negotiations and compromises with the GoI. The Palestinian Islamic militant organization, Islamic Jihad also boycotted elections. After leading the Palestinian nationalist movement and serving as the chairman of the PLO for decades, Yasser Arafat became the first president of the PA and Fatah members filled a majority of the PLC seats.⁴⁹

Arafat was reviled by many Israelis for leading the revolt against the Israeli occupation, though he received the Nobel Peace Prize for his role in the Oslo Accords. His background did not prepare him well for the unique challenges of serving as the first president of the PA.

The reality of implementing reforms in the WBGS was complicated, partly due to inept and corrupt Palestinian leadership; partly due to the constraints of the structures put in place by the Oslo Agreements; partly because of what was not included in the Oslo Agreements; and partly because there was not sufficient support for the Accords by Palestinians and Israelis, all of which will be further explored in this thesis.

Specific details about how the PA should be structured and govern the WBGS were lacking, and these ambiguities set the foundation for abuse and failures within the PA.⁵⁰ The first president of the PA, Yasser Arafat, took full advantage of the ambiguities in the interim agreement and assumed an overarching and powerful role that undermined balance of power typically found in democratic

⁴⁹ Dunne, Michele. "A Two-State Solution Requires Palestinian Politics," *Carnegie Papers*, 113 (June 2010), 5.

⁵⁰ (Freedom House 2012)

Jamal, Amal. "State-Building, Institutionalization and Democracy: The Palestinian Experience." *Mediterranean Politics* 6, no. 3 (2001): 1-30.

systems. He faced heavy criticism by Palestinians and the international community for allegations of abuse of power and corruption.⁵¹

Up until Palestinians had a Basic Law, which serves as a constitution, Arafat issued presidential decrees that were not subject to review or approval by either the PLC or an established judicial body.⁵² A couple of notable presidential decrees resulted in the establishment of the Palestine Monetary Authority in 1994 as stipulated in the Oslo Accords and the controversial State Security Court in 1995 to try cases involving security issues in the WBGS, which lacked almost all due process rights.⁵³ In February, 1996, the PLC passed a Basic Law that would have served as a constitution and limited Arafat's powers, stipulating that presidential decrees are subject to the approval of the PLC. However, Arafat did not ratify the Basic Law until 2002.

Arafat postponed indefinitely certain laws that were passed by the PLC that needed ratification by the president. Michele Dunne, a specialist at the U.S. Department of State and White House on Middle East affairs, reflects on the role Palestinian leadership played in unraveling the promise of the Accords: "Arafat undermined the PLC from the start, refusing to sign important legislation and insisting on holding broad leadership meetings that blurred the separation of powers."⁵⁴

Further, Palestinians grew frustrated as Israeli settlement in the WBGS accelerated after the signing of the Oslo Accords, particularly in Area C in the West Bank, with higher growth in the settlements than in Israel, which continued into the Twenty First Century. The Jewish settlement of Ariel in the northern West Bank is home to a competitive university, the Ariel University Center of

⁵¹ (Freedom House 2012)

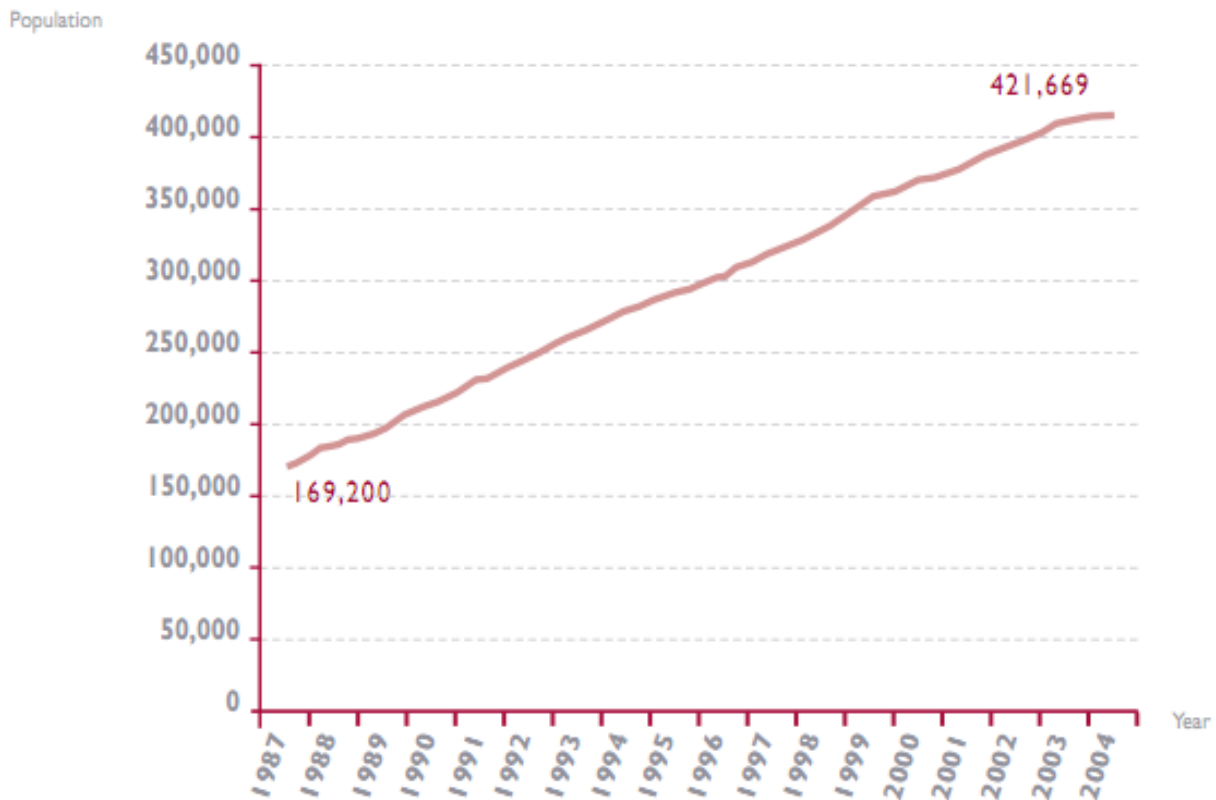
⁵² The Palestinian Basic Law: A collection of various proposals and amendments to the Basic Law of Palestine. <http://www.palestinianbasiclaw.org> (accessed October 12, 2012).

⁵³ Arab Political Systems: Palestine. *Carnegie Endowment for International Peace*. <http://carnegieendowment.org/2010/12/09/palestine/21so#judiciary> (accessed November 14, 2012). (Freedom House 2012)

⁵⁴ (Dunne 2010, 5)

Samaria that draws thousands of students each year, with 14,000 students enrolled in 2011.⁵⁵ Figure 1 charts the expansion of the Israeli settler population in the West Bank and East Jerusalem, including the five-year interim period of 1994-1999.

Figure 1: Israeli Settler Population Growth in the West Bank, Including East Jerusalem, 1987-2004

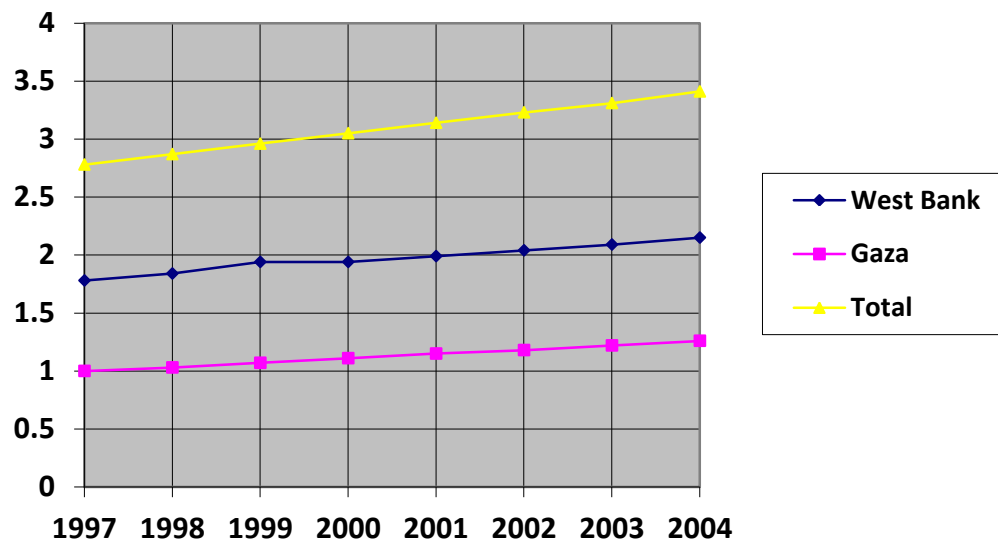


Source: UN OCHA. *The Humanitarian Impact on Palestinians of Israeli Settlements and other Infrastructure in the West Bank*. OCHA, 2007.

Figure 2 charts the Palestinian population in the West Bank, the Gaza Strip, and shows the total population of the two territories. The total Palestinian population in the West Bank in 2004 was 2.15 million.

⁵⁵ Ya'ar, Chana. *Thousands Visit Ariel to Explore University Center Offerings*. Arutz Sheva 7, August 7, 2011.

Figure 2: Estimated Population in the WBGS Mid-Year 1997-2004
(In millions)



Source: Palestinian National Authority: Palestinian Central Bureau of Statistics. "Estimated Population in the Palestinian Territory Mid-Year by Governorate, 1997-2016," *Palestinian Central Bureau of Statistics*.
http://www.pcbs.gov.ps/Portals/_Rainbow/Documents/gover_e.htm (accessed January 2, 2013).

By mid-year 2012, just over 650,000 Israelis were settled in Palestinian lands, with over 350,000 Israelis living in the West Bank and 300,000 Israelis living in East Jerusalem in 124 settlement communities in the West Bank and 12 settlements in East Jerusalem.⁵⁶ The PA reported a total population of 2, 649,020 in the West Bank and 1,644,292 individuals in the Gaza Strip in June 2012.⁵⁷ Map 2 depicts Palestinian West Bank settlements and the separation barrier in June 2012. Israeli settlements and the surrounding area included in the settlements are indicated in blue, and are dispersed throughout the West Bank.

⁵⁶ "Settlements and Land." *B'Tselem: The Israeli Information Center for Human Rights in the Occupied Territories*. <http://www.btselem.org/topic/settlements> (accessed December 3, 2012).

Sherwood, Harriet. "Population of Jewish settlements in West Bank up 15,000 in a year." *The Guardian*, July 26, 2012.

⁵⁷ (Palestinian National Authority: Palestinian Central Bureau of Statistics n.d.)

The West Bank

Settlements and the Separation Barrier

June 2012

HEBRON
Restrictions on
Palestinian Movement

East Jerusalem:
Settlement Points and
Separation Barrier

BT'SELEM
בתיסלם
The Israeli Information Center for
Human Rights in the Occupied Territories
P.O. Box 51312, Jerusalem 91531, Israel
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http://www.btselem.org

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The settlement areas, along with the roads leading to them, create a disjointed grouping of land over which the PA has jurisdiction. The geographic placement of the settlements in the West Bank has resulted in the separation of Palestinians from their land and families and the creation of security measures such as check points.

Although there was no explicit ban on building Israeli settlements in the Oslo Accords, the PLO has long argued that Israelis settlement expansion violates Article XXXI (7) of the Interim Agreement by physically and demographically altering the West Bank. The article reads: “[n]either side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip pending the outcome of the permanent status negotiations.”⁵⁸ Further, by transferring parts of its own civilian population into the territory it occupies, the GoI is violating Article 49 of the Fourth Geneva Convention. A more detailed discussion of the responsibilities of a belligerent occupying state are listed in Appendix A of this thesis.⁵⁹

More than 15 years after the interim the Gaza-Jericho Agreement was established, the GoI and the PA continue to work within the framework it established because the two sides have not achieved a final negotiated peace agreement.

⁵⁸ (Israeli-Palestinian Interim Agreement 1995)

⁵⁹ “Convention (IV) relative to the Protection of Civilian Persons in Time of War.” International Committee of the Red Cross (ICRC). August 12, 1949. <http://www.icrc.org/ihl.nsf/full/380> (accessed December 3, 2012).

CHAPTER THREE

Significant Events that Impacted PA State Building Efforts

“The Palestinian government is...employing all of its energies and available resources, most especially the capacities of our people, to complete the process of building institutions of the independent State of Palestine in order to establish a de facto state apparatus within the next two years. It is time now for the illegal occupation to end and for the Palestinian people to enjoy security, safety, freedom and independence.”⁶⁰

---Introduction to *Ending the Occupation, Establishing the State*

Events Leading to the Second Intifada

The state building process under occupation was designed to be temporary, lasting only five years at which time the Palestinians would potentially gain independence. The mandate for the PA technically expired at the end of the five-year interim period in 1999, but it continued to function in the absence of a peace agreement between the GoI and the PLO. While the transitional period potentially could have been helpful to the nascent PA, the transitional period proved to be highly disappointing to all parties as parts of the Accords were not implemented, there was poor Palestinian leadership, and there was dissatisfaction over the content agreed to in the Accords. Some Palestinians began questioning whether the Oslo Framework would indeed bring about a recognized and independent Palestinian state. Religious ideologies began to gain popularity amongst the Palestinian population and some religious groups offered an alternative vision for a Palestinian state and supported violence to achieve those aims.

In July 2000, U.S. President Bill Clinton encouraged Israeli Prime Minister Ehud Barak and Palestinian President Yasser Arafat to come together in an effort to work through remaining final-status negotiation issues. With Barak up for reelection and Clinton soon leaving office, this would be

⁶⁰ (Palestinian National Authority 2009)

a final effort to save the Israeli-Palestinian peace process by the leaders of the U.S, the GoI, and the PLO. The leaders came together in what became known as the Camp David Summit. Barak offered an arrangement that would give the Palestinians a state in approximately 77% of the WBGS over the next 21 years, and ultimately 86% of the lands Israel captured in the 1967 war. The deal would allow for the GoI to annex parts of the West Bank where Israeli settlers live as well as the access roads to those settlements. In exchange, Israel would allow for a small swap (approximately 1% of its own land). The proposal also called for the demilitarization of the WBGS, allowing for three Israeli early warning stations in the West Bank, as well as Israeli presence at all Palestinian borders, even those which the state of Israel did not share. In addition, the proposal would have divided sovereignty of East Jerusalem between Palestinians and Israelis.

The offer was not in line with UN Security Council Resolutions 242 and 338 or UN General Assembly Resolution 181. This is especially significant because the PLO and GoI agreed that a resolution to the Israeli-Palestinian conflict and permanent status issues, notably Palestinian sovereignty, would be accomplished through official diplomatic negotiations and would be based on UN Security Council Resolutions 242 and 338.⁶¹

While the PA was willing to accept a demilitarized WBGS and agree to some land concessions to account for major Israeli settlements, they were overall not willing to accept the proposal. They felt that the proposal would have compromised their land rights as secured by UN resolutions and instead called for a Palestinian state that would include all of the West Bank, Gaza Strip and East Jerusalem, along with a right of return for Palestinian refugees or compensation in lieu of return.⁶² By the end of the summit on July 25 2000, the GoI and PLO did not reach a peace agreement and, consequently, Palestinians did not achieve recognition of an independent State of

⁶¹ (Guide to the Middle East Peace Process n.d.)
(The Israeli-Palestinian Negotiations n.d.)

⁶² (Muslih 2005, 107-109)

Palestine. This outcome was perceived as a major defeat or victory for various actors in the Israeli-Palestinian conflict.

Following the summit, frustrations soared: both sides accused the other of failure to follow through on the elements and timetable stipulated in the Accords. Violence replaced hope with the outbreak of the Second Intifada in September 2000. The Second Intifada was characterized by Palestinian protests and rioting and violence between the Israeli Defense Forces and Palestinians.⁶³

The Second Intifada, Peace Attempts, and the Evolution of the PA

With progress towards a negotiated peace agreement to the Israeli-Palestinian conflict stalled and increasing media coverage of the brutalities of war, in 2002 the world became more actively involved in an effort to bring both parties back to negotiations. Arab leaders presented a plan called the Saudi Peace Initiative, which was adopted by the Arab League on March 28, 2002. The plan recognized the legitimacy of Israel and its right to live in peace amidst its neighbors and promised peace and security to Israel in exchange for withdrawing from the WBGS, the creation of an independent Palestinian state with East Jerusalem as its capital, and the return of Palestinian refugees. The plan was not adopted by Israel, but the plan was incorporated or acknowledged in subsequent peace plans such as the Quartet for the Middle East's Roadmap for Peace and Barak Obama's peace policy.⁶⁴

In the midst of the Second Intifada, the U.S. for the first time offered explicit support for the creation of a Palestinian state. Comprised of the U.S., EU, Russia and the UN, in 2002, the Quartet on the Middle East was formed, and in 2003 it revealed the "roadmap for peace," a plan to resolve the Israeli-Palestinian conflict and to bring about an internationally recognized and independent Palestinian state by 2005. The plan called for the PA to reject violence and to make democratic reforms, and for Israel to end the practice of establishing and growing settlements and accept a

⁶³ (Muslih 2005, 23)

⁶⁴ (Muslih 2005, 40)

reformed Palestinian government as a negotiating partner. Despite some significant reservations by the GoI and the PA, both parties endorsed the plan in 2003.⁶⁵ In March 2003, in part to implement the “Roadmap to Peace” and in part ceding to American pressure, the PA implemented a series of reforms, which included creating the post of prime minister.⁶⁶ Arafat appointed Mahmoud Abbas to serve as the first Palestinian prime minister. However, despite a stated commitment to the Road Map for Peace, the Second Intifada continued.

There were some similarities between Arafat and the new Prime Minister Mahmoud Abbas as both were founding members of Fatah and both had long been leaders within the PLO. Abbas, however, was different from Arafat in critical ways. Abbas earned a Ph.D in History from Oriental College in Moscow, whereas Arafat earned a civil engineering degree from Cairo University in Cairo, Egypt. Abbas was viewed as a pragmatist by the West and proved to be genuinely committed to reforming the PA, whereas many of Arafat’s actions were corrupt and he allowed and endorsed violence, despite a public commitment to nonviolence as president of the PA. Abbas’ appointment as prime minister was supported by the West, but he stepped down in less than a year due to power-sharing struggles with Arafat. Upon Arafat’s death on November 11, 2004, Mahmoud Abbas took his place as chairman of the PLO’s Executive Committee.⁶⁷

In January 2005, Palestinians held elections, which Hamas and Islamic Jihad again boycotted, and Abbas was elected as the president of the PA. Abbas had run on a platform of nonviolence and promoted negotiations with Israel to end the occupation and to bring about an independent State of Palestine.⁶⁸ Shortly after taking office, he helped bring an end to the Second

⁶⁵ (Dunne 2010, 7-8)

(Amundsen and Ezbidi 2004, 44-45)

See the full text of the 2003 Road Map to Peace at <http://www.un.org/media/main/roadmap122002.html>.

⁶⁶ The Roadmap’s full title is ‘A Performance-Based Road Map to a Permanent Two-State Solution to the Israeli–Palestinian Conflict’.

⁶⁷ (Dunne 2010, 7-8)

⁶⁸ Central Elections Commission Palestine. *Report on Second Presidential Elections*. Ramallah: Central Elections Commission Palestine, 2005.

Intifada. Some Palestinians once again hoped that diplomatic negotiations with Israel would bring about a secular, democratic, independent and internationally recognized Palestinian state.⁶⁹

The rise of Mahmoud Abbas within the PLO and the PA ushered in a new type of Palestinian leadership. Abbas immediately set out to reform the PA, strengthen Palestinian institutions, and engage diplomatically with Israel to improve living conditions for Palestinians and to advance Palestinian goals.

In August and September 2005, Israel enacted a unilateral disengagement plan that was outside of the parameters of the larger Road Map for Peace. In the Gaza Strip, Israeli Defense Forces left and Israeli citizens were evicted by the GoI. In the West Bank, four West Bank settlements were evicted by the GoI, while others remained or were soon added. While Israel ended its administration in Gaza in 2005 and declared it was no longer occupying the Gaza Strip, it maintained control over its borders, including the border with Egypt, along with its maritime and airspace, and import and export policy as granted by Oslo provisions. Therefore, the United Nations Security Council, along with some countries and humanitarian organizations continued to consider the Gaza Strip occupied by Israel.⁷⁰ The PA initially welcomed the withdrawal, with hopes it would lead to Palestinian sovereignty.⁷¹ With Israeli promises of an easing of restrictions on Gazans, the PA cooperated throughout the disengagement and ensured it was peaceful. Two months after the withdrawal, Abbas' attitude towards it shifted. He remarked: "We were told that our behavior would be a "test," and that if we did our part, Israel would reciprocate by allowing Gazans to breathe the air of freedom and begin rebuilding their shattered lives. Yet, this has not happened: Gaza's airport and crossing point to Egypt remain closed; its waters are off-limits to our fishermen; its borders are completely sealed and movement into or out of Gaza is virtually impossible; and no safe passage between Gaza and the

⁶⁹ (Dunne 2010, 8)

⁷⁰ (Quigley, Statehood of Palestine 2010, 225)

⁷¹ Hollinder, Brandon. "The Israeli Disengagement Plan: Unilateralism in the Face of Multilateral Agreements." *Human Rights Brief* 13, no. 1 (2005): 17-20.

West Bank exists. Because investors rightly fear that without access to the outside world, Gazans will not be able to rebuild a functioning economy, they have been slow at investing.”⁷²

There was a marked decline in the number of mortars fired into Israel in 2005 though the number accelerated significantly in 2006, with estimates ranging from 968 to 1123 fired, and between four and nine individuals killed from the rockets and mortars that year.⁷³ Table 2 provides estimates of the number of rockets and mortars fired from Gaza by year and the number of associated fatalities.

Table 2: Number of rockets and mortar attacks from Gaza, by year, and associated fatalities

| Year | IDF reported no. rockets/mortars fired from Gaza | ITIC reported no. rockets/mortars fired from Gaza | IDF reported rocket /mortar fatalities | Mondoweiss reported rocket/ mortar fatalities |
|-------------|---|--|---|--|
| 2001 | 510 | 249 | -- | -- |
| 2002 | 661 | 292 | -- | -- |
| 2003 | 848 | 420 | -- | -- |
| 2004 | 1528 | 1157 | -- | -- |
| 2005 | 488 | 417 | -- | -- |
| 2006 | 1123 | 968 | 9 | 4 |
| 2007 | 2427 | 1536 | 10 | 2 |
| 2008 | 3278 | 2471 | 15 | 8 |
| 2009 | 774 | 266 | 2 | 0 |
| 2010 | 231 | 156 | 5 | 1 |
| 2011 | 627 | -- | 3 | 2 |
| 2012 | 1197+ | -- | -- | -- |

Source: (Nguyen 2012)

A Palestinian Vision Splintered: Hamas and Fatah

Islamist groups grew in popularity amongst Palestinians during the Intifadas. In 2006, after many years of boycotting Palestinian elections, the Islamic group Hamas decided to participate in PLC elections, posing a significant threat to the PLO and Fatah-dominated PA and their plans for a

⁷² Abbas, Mahmoud. “Is the ‘Road Map’ at a Dead End?” *The Wall Street Journal*. October 20, 2005.

⁷³ Nguyen, Phan. “Dissecting IDF propaganda: The numbers behind the rocket attacks.” *Mondoweiss*. November 17, 2012.

two-state solution to the conflict. Despite less campaigning due to Israeli detentions of candidates, Hamas won a majority of the seats —76 out of 132—potentially ending decades of Fatah rule.⁷⁴ Officials and observers deemed the elections, peaceful, free, and fair.⁷⁵ *Foreign Policy* took the praise a step further, stating the elections were “one of the freest and fairest elections ever conducted in the Middle East.”⁷⁶

Under Fatah leadership, by the Twenty-First Century, Palestinians had participated in two major conflicts (the Intifadas) and endured nearly 40 years of Israeli-occupation. It seemed as if Fatah had failed the Palestinian people. Hamas strongly opposed Fatah policies and offered what seemed a viable alternative leadership to the Palestinian people. Mandy Turner, Lecturer in Conflict Resolution at the University of Bradford, provided an analysis of the popularity of Hamas: “As Hamas stepped into the political arena, it was able to capitalize on the lack of peace process and growing disenchantment with Fatah, the ruling party, based on perceptions that Fatah was both corrupt and too willing to bend to the needs of Israel and the U.S. Hamas, as well as campaigning against the Oslo Accords and (for) a tougher stance towards Israel, also campaigned for transparency and ‘good governance’ on a ‘Change and Reform’ platform.”⁷⁷

The international community reacted swiftly to oppose the democratically elected Hamas members to the PLC. Mandy Turner states: “The Quartet demanded that the new Hamas-led government renounce violence, accept all previous agreements and recognize Israel,” which it refused to do. Turner outlines the rationale of Hamas: “Hamas believed the result gave it a mandate

⁷⁴ (Turner 2009, 562-577)

Fatah took 43 seats.

Prior to the elections, Israel detained 450 Hamas members, many of whom would participate in the PLC elections and who were released around the time of the PLC elections.

“Palestinian Legislative Council Members.” *Addameer Prisoner Support and Human Rights Association*. <http://www.addameer.org/etemplate.php?id=339> (accessed December 3, 2012).

⁷⁵ European Union @ United Nations. “EU Parliament –MEPS oversee historic Palestinian election.” *European Union @ United Nations*. January 30, 2006. http://www.eu-un.europa.eu/articles/fr/article_5621_fr.htm (accessed December 3, 2012).

⁷⁶ Abu-Irshaid, Osama. “What Israel Needs to Know about Sharia.” *Foreign Policy*, July 22, 2009.

⁷⁷ (Turner 2009, 570)

to change the PA to reflect the needs of Palestinians in the post-Oslo era and to renegotiate previous agreements. Both the U.S. and the EU acknowledged that the elections had been free and fair, but decided that Hamas must renounce the platform upon which it had fought the election, or be isolated and eventually overthrown.”⁷⁸

When Hamas did not meet the Quartet’s demands, the donor community suspended foreign aid and loans to the PA (though some funds were shifted to Palestinian NGOs). Israel’s reactions to the election proved devastating to the PA. It withheld Palestinian VAT and border clearance revenues from the PA, in violation of the Paris Protocol on Economic Relations and it intensified attacks on members of Hamas.⁷⁹

Within the WBGS, election results initiated conflict between Fatah and Hamas, known as the Palestinian Civil War, and also between Hamas and Israel. The conflict included political and military actions over roles and powers within the PA and its institutions. In June 2006, the conflict between Israel and Hamas escalated, and the Israel Defense Forces (IDF) arrested eight PA cabinet ministers and about 40 Hamas PLC legislators, along with some legislators from other factions, including PLC speaker Aziz Dweik. Michele Dunne, a senior associate at the Carnegie Endowment for International Peace, writes: “Without its majority in the body, and with speaker Aziz Dweik imprisoned, Hamas would not call the PLC into session. Fatah and its allies did not possess the 70-seat quorum required to convene without Hamas.”⁸⁰ The PLC, therefore, was unable to convene and was unable to pass laws and to approve political appointments, so Abbas disbanded the PLC and began ruling by presidential decree.⁸¹

⁷⁸ (Turner 2009, 571)

⁷⁹ DeVoir, Joseph, and Alaa Tartir. *Tracking External Donor Funding to Palestinian Non-Governmental Organizations in the West Bank and Gaza 1999-2008*, Palestine Economic policy Research Institute and NGO Development Center, 2009.

⁸⁰ (Dunne 2010)

⁸¹ Journal of Palestine Studies. “The Palestinian Economy and Future Prospects: Interview With Mohammad Mustafa, Head of the Palestine Investment Fund.” *Journal of Palestine Studies* (University of California Press) 39, no. 3 (2010): pp. 40-51.

In an effort to end the growing schism between Fatah and Hamas, in March 2007 both sides agreed to form a national unity government. Despite the creation of a Hamas-led unity government, donors continued to boycott the PA because of Hamas' role in it.⁸²

Fighting between Fatah and Hamas members escalated in June 2007, and Hamas violently ousted Fatah forces in the Gaza Strip, seizing full control of the territory. President Abbas called the action a coup and reacted by dissolving the unity government and declaring a state of emergency. He dismissed Prime Minister Ismail Haniyeh and replaced him with Salam Fayyad. Fayyad was a Third Way party member, which was not affiliated with Fatah or Hamas. Abbas tasked Fayyad with forming an interim PA caretaker government in Ramallah, including ministers that were not affiliated with Hamas or Fatah. Abbas promised to hold parliamentary elections as soon as circumstances permitted. As Fayyad began governing the Fatah-controlled areas of the West Bank, Haniya continued to govern in the Hamas-controlled Gaza Strip, creating a situation in which parallel governments both claimed constitutional legitimacy.⁸³ The two different governance models resulted in different development paths for the WBGS and a severed vision for Palestinian statehood.⁸⁴

Some people have questioned the legitimacy of President Abbas's actions. The Palestinian Basic Law provides guidance on these matters. While the Basic Law gives the president the right to declare a state of emergency and dismiss the prime minister, a state of emergency is only permitted to last for up to 30 days, and can only be extended for another 30 days if two-thirds of the PLC vote in favor of the extension. The PLC was not in operation, so the state of emergency and decrees issued were not approved.⁸⁵ Since the PLC has not been in operation, it has not had the opportunity to

⁸² (DeVoor and Tartir 2009, 9)

⁸³ (Turner 2009, 562)

Brown, Nathan. *What Can Abu Mazin Do?*. Carnegie Endowment for International Peace, 2007.

⁸⁴ Zanoliti, Jim. *US Foreign Aid to the Palestinians*. Congressional Research Service Report for Congress, Congressional Research Service, 2010.

⁸⁵ Article 45 of the Basic Law states: The President of the National Authority shall have the right, in cases of necessity that cannot be delayed, and when the Legislative Council is not in session, to issue decrees that have the power of law. These decrees shall be presented to the Legislative Council in the first session convened after their

consider Salam Fayyad's appointment as prime minister during the state of emergency and many PLC members continue to recognize Haniyeh as the legitimate prime minister.⁸⁶

Nathan Brown, Professor at the Elliott School of International Affairs at Washington University, noted that the establishment of a caretaker government "would have to receive the support of an absolute majority of deputies (not just a majority of those voting) according to Article 67[of the Basic Law]."⁸⁷ Subsequently, ministerial offices were established in Ramallah, separate from those already established in Gaza.⁸⁸

The actions of Hamas were also contentious. Brown pointed out that the Hamas takeover of the Gaza Strip was illegal because it used its armed wing instead of the Palestinian Security Forces it controlled.⁸⁹

Despite the controversial method in which Fayyad came into power, the PA gained legitimacy and wide international support for its reform agenda. Israel, Fatah, Western governments, and international financial institutions supported Abbas' actions. Foreign governments reacted by removing financial sanctions, lifting the boycott, and resuming aid to the caretaker government in the West Bank. Abbas refocused PA reform and development initiatives primarily in West Bank institutions within Area A and B, where the PA maintained partial or full jurisdiction.

issuance; otherwise they will cease to have the power of law. If these decrees are presented to the Legislative Council, as mentioned above, but are not approved by the latter, then they shall cease to have the power of law. Article 113 states: The Palestinian Legislative Council may not be dissolved or its work hindered during a state of emergency, nor shall the provisions of this title be suspended.

Article 110 states: The President of the National Authority may declare a state of emergency by decree when there is a threat to national security caused by war, invasion, armed insurrection or in times of natural disaster, for a period not to exceed thirty (30) days. The state of emergency may be extended for another period of thirty (30) days if a two-thirds majority of the members of the Legislative Council vote in favor of the extension. The decree declaring a state of emergency shall state its purpose, the region to which it applies and its duration. The Legislative Council shall have the right to review all or some of the procedures and measures adopted during the state of emergency, at the first session convened after the declaration of the state of emergency or in the extension session, whichever comes earlier, and to conduct the necessary interpellation in this regard.

(The Palestinian Basic Law n.d.)

⁸⁶ (Turner 2009, 562)

(Brown 2007)

⁸⁷ (Brown 2007)

⁸⁸ The World Bank. *West Bank and Gaza: Improving Governance and Reducing Corruption*. The World Bank, 2011.

⁸⁹ (Brown 2007)

Aside from allowing some humanitarian aid, the international community increased the intensity of the boycott and sanctions on the Hamas-led government in the Gaza Strip. Israel and Egypt imposed a land, air, and sea blockade of goods into and out of the Gaza Strip, with Israel closing five border crossings and Egypt closing its Rafah border crossing.⁹⁰ Hamas secured alternative funding sources, primarily through Islamic charity organizations and Iran.⁹¹ Mandy Turner reflects on the international community's reaction to the situation, saying: "Giving preference to President Abbas and the technocrats in Ramallah over the elected Hamas government was the only way in which the EU and the World Bank could disburse money without running afoul of U.S. anti-terror legislation...Hamas was thus left with a dysfunctional PA apparatus in Gaza severed from a semi-functioning PA apparatus in the West Bank."⁹²

The two different governments for the West Bank and Gaza Strip have resulted in different development paths. Within the West Bank, large sums of external assistance and technical assistance by international financial institutions, the caretaker government undertook a serious state building effort, exclusively in the West Bank. This effort has resulted in some notable institutional reforms and economic progress. Conditions have been very different in the Gaza Strip under the Israeli-Egyptian blockade and Hamas rule, though Egypt partially opened its border with the Gaza Strip in May 2011.⁹³ There have long been hundreds of underground tunnels into the Gaza Strip from Egypt, many of which have been used for smuggling goods, people, and weapons and at times, Egypt and Israel have attempted to close them.⁹⁴

⁹⁰ Erakat, Noura. "Israel's blockade of Gaza is cracking." *Al Jazeera*. May 9, 2011.

<http://www.aljazeera.com/indepth/opinion/2011/05/201159153020317825.html> (accessed November 3, 2012).

⁹¹ al-Mughrabi, Nidal, and Douglas Hamilton. "Analysis: Hamas on the move, seeks Palestinian ascendancy." *Reuters*. February 1, 2012. <http://www.reuters.com/article/2012/02/01/us-palestinians-hamas-idUSTRE8101EA20120201> (accessed June 3, 2012).

⁹² (Turner 2009, 571)

⁹³ BBC. "Egypt eases blockade at Gaza's Rafah border." *BBC*. May 28, 2011. <http://www.bbc.co.uk/news/world-middle-east-13581141> (accessed December 9, 2011).

⁹⁴ The Associated Press. "Egypt military begins operation to close Gaza smuggling tunnels." *Haaretz*. September 4, 2011. <http://www.haaretz.com/news/diplomacy-defense/egypt-military-begins-operation-to-close-gaza-smuggling-tunnels-1.382453> (accessed December 1, 2012).

Soon after Hamas began ruling in the Gaza Strip, Hamas's military wing increased attacks on Israel and in December 2008, the Gaza War broke out. Also known as known as Operation Cast Lead, it consisted of a three-week air strike by Israel and hundreds of rocket attacks on Israel from Hamas' military wing, causing immense destruction and loss of lives.⁹⁵

Hamas did not bring about the progress it promised during the 2006 elections. In December 2011, Columbia University Professor Rashid Khalidi reflected on Hamas' governance in the Gaza Strip: "If you look at the polls from Gaza you can see that governing doesn't do good for a lot of these people. It's perfectly fine to come in with a slogan that "Islam is the solution", but try to solve a housing crisis, or infrastructure, or unemployment, with "Islam is the solution." Well, Hamas didn't do very well with some of these issues."⁹⁶

Palestinians recognize the damage the divide between Hamas and Fatah has caused. Palestinians refer to the conflict, which was most intense during 2007, as "Wakseh," meaning self-inflicted humiliation and there is popular support for reconciliation.⁹⁷ Many efforts have been made to bring together the two parties including Egyptian-brokered talks between the parties in 2007 and 2009, but true reconciliation has not been achieved.⁹⁸

In January 2009, PA President Mahmoud Abbas's term officially expired and elections were not held. Hamas argued that the expiration of Abbas's gave him no constitutional authority to call for elections, which he did in 2010 and 2011, to which Hamas responded "that elections can only be held

⁹⁵ Ibish, Hussein. "Operation Cast Lead 2.0." *Foreign Policy*. November 14, 2012.

http://www.foreignpolicy.com/articles/2012/11/14/operation_cast_lead_20 (accessed December 3, 2012).

⁹⁶ Shalev, Chemi. "Full Transcript of interview with Palestinian professor Rashid Khalidi." *Haaretz*. December 5, 2011. <http://www.haaretz.com/news/middle-east/full-transcript-of-interview-with-palestinian-professor-rashid-khalidi-1.399632> (accessed May 8, 2012).

⁹⁷ Austin, Jonathan, Benjamin Hofmann, Béatrice Goddard, and Hannah Gray. *Hamas and the Peace Process Resistance, Rejectionism, Reconciliation?* University of St. Andrews Centre for Peace and Conflict Studies, 2011.

⁹⁸ Challand, Benoit "Fatah-Hamas Rivalries after Gaza: Is Unity Possible?." *The International Spectator: Italian Journal of International Affairs* 44, no 3 (2009): 11-17.

under ‘national accord,’ under which the two sides agree to share control of Palestinian-ruled areas.”⁹⁹

Over the past few years, Hamas has at times shown signs of moderation. The most notable change was a cease fire agreement with the West Bank and Israel in January 2009, which resulted in varied success. Hamas subsequently took action to arrest its own militants and other militants engaged in firing rockets at Israel. Table 2 showed a sharp reduction in rockets and mortars fired into Israel from 2008 to 2009 and from 2009 to 2010. This decision was challenged domestically, particularly by Islamic Jihad militants. Further, Hamas leadership decided to focus on countering the occupation through popular resistance, a nonviolent struggle in place of a violent struggle. Following signs of moderation in 2009 and 2010, by late 2010 Hamas militants increased mortars and rockets into Israel, continuing into 2012, culminating an intense eight-day breakout of violence, with intense Israeli airstrikes and a barrage of Hamas rockets fired at Israel.¹⁰⁰

Amongst Palestinians, there is widespread support for Hamas and Fatah to reconcile. Like other governing bodies across the Middle East, the PA felt the pressure of the Arab Spring as Palestinians joined the movements across the Middle East, calling on their leaders to reconcile.¹⁰¹ In March 2011, *The Economist* reported: “Palestinians in both territories have been crying for ‘revolution until we end the division’.”¹⁰² Mouin Rabbani, a Policy Advisor at the Palestinian think tank Al-Shabaka, suggested that a revival of the Palestinian national movement will require

⁹⁹ The Jerusalem Post. “Abbas says no to elections if Hamas cannot vote.” *The Jerusalem Post*. February 27, 2011. <http://www.jpost.com/MiddleEast/Article.aspx?id=208637> (accessed March 18, 2012).

¹⁰⁰ BBC News Middle East. “Gaza and Israel begin to resume normal life after truce.” *BBC News Middle East*. November 22, 2012. <http://www.bbc.co.uk/news/world-middle-east-20444499> (accessed December 15, 2012).

¹⁰¹ The Arab Spring is a revolutionary wave of demonstrations and protests began taking place in the Arab world in December, 2010.

¹⁰² The Economist. “Not Immune: As Palestinians protest against their rulers, violence with Israel flares again.” *The Economist*. March 24, 2011. <http://www.economist.com/node/18447012> (accessed February 13, 2012).

reconciliation between Hamas and Fatah based on a common political program and democratic engagement of sectors of the Palestinian people that have been excluded.¹⁰³

In May 2011, Palestinians achieved a reconciliation deal in Cairo, in effect bringing an end to the internal conflict. Mediated by Egypt, Hamas and the smaller militant group Islamic Jihad began taking steps to join the PLO. In 2012, Hamas and Fatah agreed to form a joint caretaker government and to hold elections in 2012. A May 2011 Palestinian Center for Public Opinion poll revealed that “79.7% [of Palestinians in the West Bank and Gaza Strip] support the reconciliation agreement that was signed in Cairo.”¹⁰⁴ The reconciliation deal did not in fact lead to a joint caretaker government or elections.

Notably, acceptance into the PLO necessitates that Hamas renounce violent resistance and instead, adopt peaceful resistance and a truce with Israel. Acceptance to the PLO would mean that Hamas would have to adopt the two-state solution model, recognize Israel and agree to the political program of the PLO.

Hamas’ indication that it wants to join the PLO has likely been influenced by a power shift in the Middle East due to the Arab Spring. Historically, Hamas leaders, the Syrian government and Iranian government have been strong allies. Iran has admitted to supplying money and weapons to Hamas. However, the Arab Spring lessened Iran’s influence and support for Hamas, and empowered Hamas’s parent group, the Muslim Brotherhood in Egypt. Hamas reacted strongly to the Syrian government’s role and brutality toward Sunni Muslims during the 2011 to 2013 civil war and it moved its Damascus headquarters to Qatar and Egypt.¹⁰⁵ Further, Hamas indicated it would not join a

¹⁰³ Rabbani, Mouin. “Prisoner Exchange Levels Hamas, Fatah Playing Field.” *Al-shabaka: The Palestinian Policy Network*. October 20, 2011. <http://al-shabaka.org/prisoner-exchange-levels-hamas-fatah-playing-field> (accessed December 3, 2012).

¹⁰⁴ Palestinian Center for Public Opinion. *Poll No. 176*. Poll, Palestinian Center for Public Opinion, 2011.

¹⁰⁵ (al-Mughrabi and Hamilton 2012)

Reuters. “Iran cuts Hamas funding for failing to show support for Assad.” *Haaretz*. August 21, 2011. <http://www.haaretz.com/news/middle-east/iran-cuts-hamas-funding-for-failing-to-show-support-for-assad-1.379845> (accessed June 14, 2012).

war on Israel should one start between Iran and Israel. Hamas' lack of support of Syria has caused a rift between Hamas and Iran, and in August 2011, Iran reduced its funding to Hamas.¹⁰⁶

Members of Hamas have accused Palestinian Prime Minister Salam Fayyad of supporting Israel's blockade of the Gaza Strip. His polarizing effect on members of Hamas, coupled with attacks by political rivals within the caretaker government could threaten the chances for Palestinian unity. Fayyad has recognized the situation and suggested that he would step down as prime minister to facilitate the reconciliation process. In November 2011, Fayyad remarked to the Al-Quds newspaper, "I call upon all factions and political parties to agree on a new prime minister. I was never an obstacle to the implementation of the reconciliation and I refuse to be used as a pretext for continuing the split."¹⁰⁷

In March 2012, the Hamas prime minister in Gaza, Ismail Haniya, initiated talks with the Central Elections Commission, indicating it intended to join the PLO. Palestinian President Mahmoud Abbas allowed the commission to operate in Gaza, as a stipulation in a power-sharing agreement between Hamas and Fatah. The commission began working to register up to 250,000 eligible voters so that an election could take place and a power-sharing government between Fatah and Hamas could be formed.¹⁰⁸ Abbas indicated that with a power-sharing government, the status quo would largely continue, with Hamas retaining control in the Gaza Strip as long as it adhered to a cease-fire with Israel.¹⁰⁹

¹⁰⁶ Mitnick, Joshua. "Hamas Says it Wouldn't Join a War on Israel." *The Wall Street Journal*. March 7, 2012. <http://online.wsj.com/article/SB10001424052970203961204577267153329869844.html> (accessed June 3, 2012). (al-Mughrabi and Hamilton 2012)

¹⁰⁷ Sawafta, Ali. "Fayyad may quit for the sake of Palestinian unity." *Reuters*. November 14, 2011. <http://www.reuters.com/article/2011/11/14/us-palestinians-reconciliation-fayyad-idUSTRE7AD15W20111114> (accessed January 3, 2012).

¹⁰⁸ Akram, Fares. "Hamas Takes Step Toward Palestinian Unity Government." *The New York Times*. May 28, 2012. <http://www.nytimes.com/2012/05/29/world/middleeast/hamas-makes-step-toward-palestinian-unity-government.html> (accessed June 2, 2012).

¹⁰⁹ Associated Press. "PA prime minister offers unity deal to Hamas." *Associated Press*. December 27, 2011. <http://www.jpost.com/MiddleEast/Article.aspx?id=209039> (accessed February 8, 2012).

These steps by Hamas and Fatah leaders were met by resistance by some of the members of their parties, particularly in their respective security forces, which have been integral to arresting members of the opposing party.¹¹⁰ Nonetheless, concrete steps have been taken towards moderating Hamas and reconciling Fatah and Hamas.

The possibility of a true reconciliation between Fatah and Hamas and the acceptance of Hamas into the PLO is highly controversial in the international community. Some governments, such as the GoI, view the reconciliation and acceptance of Hamas as a threat to Israeli security.¹¹¹

Introducing a New State Building Initiative

In 2007, faced with a dysfunctional institutional framework and years of economic retrogression, leaders in the PA set out to reform the social, political, and economic conditions in the West Bank. According to the PA: “In 2007, Palestine faced a major socio-economic crisis. The economy had virtually collapsed, with per capita GDP declining by more than one-third in real terms from 1999 to 2007. The government budget deficit was running at 24% of GDP while accumulated debts to public employees and private sector suppliers exceeded US\$1.3 billion. Government sector strikes protesting the non-payment of salaries disrupted education and health services. Shattered business confidence suffocated private sector investment and capital formation, and human and capital flight was witnessed throughout occupied Palestine.”¹¹²

Under the guidance of President Mahmoud Abbas and Prime Minister Salam Fayyad, the PA introduced reform plans intended to strengthen government institutions and to bring security and

¹¹⁰ Issacharoff, Avi. “Is Israel witnessing the rise of a kinder, gentler Hamas?” *Haaretz*. December 30, 2011. <http://www.haaretz.com/weekend/week-s-end/is-israel-witnessing-the-rise-of-a-kinder-gentler-hamas-1.404543> (accessed January 4, 2012).

¹¹¹ Badkar, Mamta. “Israel Rejects Fatah-Hamas Reconciliation.” *Business Insider: Politics*. April 28, 2011. http://articles.businessinsider.com/2011-04-28/politics/29991479_1_hamas-fatah-past-peace-accords-abbas#ixzz1zNkx2xNN (accessed December 1, 2011).

¹¹² Palestinian National Authority. *National Development Plan 2011-2013: Establishing the State, Building our Future*. Palestinian National Authority, 2011.

Gross Domestic Product (GDP) is the monetary value of all the finished goods and services produced within a defined territory or country in a year. It includes all of private and public consumption, government outlays, investments and exports less imports that occur within a defined territory.

prosperity to its citizens and to Israel. The PA, with support and assistance from international and bilateral institutions, especially the IMF and the United Kingdom's Department for International Development, developed plans to restore good governance, the rule of law, and socio-economic stability and ultimately, establish a recognized independent democratic Palestinian state that would encompass the West Bank, Gaza and East Jerusalem. The plans the PA produced include the *Palestinian Reform and Development Plan* (2008), *Ending the Occupation, Establishing the State* (2009), *Homestretch to Freedom* (2010), and *Establishing the State, Building our Future* (2011).¹¹³ In particular, when the PA presented its 2008 plan to the international development partners in Paris in 2007, it received widespread financial backing.¹¹⁴ Notably, Israel and the U.S. supported these initiatives through large contributions of financial aid and technical assistance.

American journalist, columnist and author Thomas Friedman is one of many individuals and institutions that gave credit to Fayyad for his strong role in the reform efforts, noting that the reforms outlined in the plan are remarkably transparent, a characteristic largely unique in the Arab world. Friedman coined the term "Fayyadism," explaining: "Fayyadism is based on the simple but all-too-rare notion that an Arab leader's legitimacy should be based not on slogans or rejectionism or personality cults or security services, but on delivering transparent, accountable administration and services."¹¹⁵

The 2008 *Palestinian Reform and Development Plan* (PRDP) outlined the PA's policy goals of advancing safety and security, good governance, increasing national prosperity, and enhancing the quality of life. While the plan suggests that the *full* potential of the Palestinian private sector can only be realized by the lifting of Israeli-imposed restrictions on the movement of Palestinian goods and

¹¹³ An outline of the reforms for *Palestinian Reform and Development Plan* 2008-2010 in the security, justice and economic sectors are included in Appendix E.

¹¹⁴ Palestinian National Authority. *Palestinian Reform and Development Plan: 2008-2010*. Palestinian National Authority, 2008.

¹¹⁵ Friedman, Thomas. "Green Shoots in Palestine," *The New York Times*. August 4, 2009. <http://www.nytimes.com/2009/08/05/opinion/05friedman.html> (accessed August 1, 2009).

people, the plan outlines policies that would promote a private-sector led approach to growth. The 2009 *Ending the Occupation, Establishing the State* plan builds on the PRDP, further challenging the PA to establish a recognized and independent Palestinian state within two years. The ultimate goal of the implementation of the 2009 plan follows: “The supreme goal of the national liberation cause...is to end the occupation, establish a sovereign and independent state on the 1967 borders with Jerusalem as its capital, and reach a just and agreed solution for Palestinian refugees in accordance with relevant international resolutions, and UN General Assembly Resolution 194 in particular.”¹¹⁶

The following chapters will include an analysis of the PA’s 2009-2011 *Ending the Occupation, Establishing the State* plan. The analysis will focus on goals relating to security, justice and economic development in the West Bank.

¹¹⁶ (Palestinian National Authority 2009)

Some critics of the plan claim that development only facilitates the Israeli occupation and normalizes life under occupation, but does not actually bring about the political changes necessary to end the occupation. Other critics do not support the end goal of the plan, which is to bring about a de facto Palestinian state in the West Bank, Gaza and Jerusalem.

CHAPTER FOUR

Analyzing the Palestinian Judicial Sector

“The current development in the Judicial Authority would not have been achieved without the support the Palestinian National Authority received from donors who delivered assistance that is in line with the needs of the judiciary.”¹¹⁷

--- Chief Justice, Judge Issa Abu-Sharar

This chapter includes an overview of the establishment of the Palestinian judicial system as stipulated in the Oslo Accords and subsequent developments. The PA’s judicial objectives as laid out in PA’s 2009-2011 *Ending the Occupation, Establishing the State* plan are presented and analyzed. Achievements and shortcomings of the judicial goals are assessed and suggestions for further judicial reforms are included.

Building the Palestinian Judicial System

President Yasser Arafat’s first presidential decree on May 20, 1994 was to recognize all legislation prior to June 5, 1967 as valid in Palestine, many of which were unique to the West Bank or Gaza Strip and subsequently, laws have been passed in an effort to unify the laws between the territories.¹¹⁸ The Palestinian judicial system was established in accordance with stipulations in the Oslo Accords and further legislation was introduced that would apply in both the West Bank and Gaza Strip. Between 1996 and 2002, the PLC passed more than 80 new laws.¹¹⁹ The courts functioned simultaneously with longstanding Shari’a courts.¹²⁰

¹¹⁷ European Commission. *OPT: Empowering the Palestinian judicial system - EU launches 'Seyada II'*. European Union, 2009.

¹¹⁸ Palestinian Economic Policy Institute (MAS). *Palestine Investment Conference: The Palestinian Judicial System*. MAS, 2008.

¹¹⁹ (Muslih 2005, 303)

¹²⁰ Shari’a Law is the religious law of Islam. The jurisdiction of Shari’a courts in Palestine is limited to personal status issues and Islamic endowment. Therefore, the family affairs of Muslims in Palestine are regulated by Islamic Family Law, which is also known as Personal Status Law.

Annex III of the May 4, 1994 Gaza-Jericho Agreement concerns legal matters and provides the basis of the Palestinian judiciary. The main purpose of Annex III was to transfer legal jurisdiction to the PA in areas of its control. Annex III provides specific arrangements for exercising jurisdiction in criminal and civil matters. The key points of Annex III are listed in Table 3.

Table 3: Key Points of Annex III Concerning Legal Matters of Gaza-Jericho Agreement

| Key Points of Annex III |
|--|
| The jurisdiction of the Palestinian Authority covers all criminal offenses committed in the areas under its territorial jurisdiction. |
| Israel has sole criminal jurisdiction over offenses committed in the settlements and the Military Installation Area, and over offenses committed throughout the Gaza-Jericho area by Israelis. |
| Israel and the Palestinian Authority shall cooperate and provide each other with legal assistance in criminal matters including the exchange of information, records of criminal suspects, vehicle ownership registration, and the like. |
| Both Israel and the Palestinian Authority may ask for a transfer of suspects or defendants that fall under their jurisdiction. |
| The Palestinian courts and judicial authorities have jurisdiction in all civil matters. |
| The Palestinians have no jurisdiction over civil actions in which an Israeli is a party unless that action relates to property in the autonomous area, or an ongoing Israeli business located in the autonomous area, or the Israeli in question has consented to such jurisdiction. |

Source: "Main Points of the Gaza-Jericho Agreement." Israel Ministry of Foreign Affairs. May 4, 1994. <http://www.mfa.gov.il/MFA/Peace%20Process/Guide%20to%20the%20Peace%20Process/Main%20Points%20of%20Gaza-Jericho%20Agreement> (accessed December 7, 2012).

The nascent Palestinian judicial system largely performed poorly during the 1990s, marked by unfair trials and a lack of enforcement of court decisions. While the Minister of Justice and the attorney-general had the right to give orders to security forces, the security forces often did not carry out the orders. This lack of an effective formal justice system brought about an underground, informal judicial system.¹²¹

Many Palestinians did not use the court system in the 1990s and dealt with matters themselves due to its severe inadequacies. However, as the PA slowly implemented reforms in the judicial sector, public perception toward the judiciary gradually improved. In the early twenty-first

Shehada, Nahda. "Flexibility versus Rigidity in the Practice of Islamic Family Law. *Institute of Social Studies* 32, no. 1 (June 2009): 28-46.

¹²¹ (Jamal 2001)

century, significant pieces of legislation were produced that inched the PA closer to creating the foundation for the rule of law.¹²²

One of the most important milestones in developing a stable government is establishing rules of law, primarily a constitution that establishes the rights of the people and of the powers of government. When the PLC was formed in 1996, it refused to adopt the Basic Law that the PLO had drafted, which clearly reflected the PLO's desire to preserve its powers. According to article IX (1)(2) of the Declaration of Principles, the PLC was given the power "to legislate, in accordance with the Interim Agreement, within all authorities transferred to it." Accordingly, the PLC produced its own Basic Law in 1997. While the PLC's drafted basic laws were similarly shaped by various political interests, they established the institutions of a Palestinian state and placed limitations on the powers of the PA executive office.

Arafat showed reluctance to cede powers to an independent elected assembly and refrained from ratifying the Basic Law until Palestinian and international pressure compelled him to do so in 2002.¹²³ In 2003 the political system was changed to introduce a prime minister. In 2005 the Basic Law was amended to conform to the new Election Law.¹²⁴ The Palestinian Basic Law serves as the PA's temporary constitution regulating functions in the WBGS and is the most important piece of Palestinian legislation that governs the Palestinian judiciary.¹²⁵ The Basic Law established Jerusalem as the Palestinian capital, declared Islam as the official religion, and identified Arabic as the official language in Palestine. The Basic Law called for the protection of basic human rights and liberties for individuals, and called for the PA to become party to international declarations and covenants that protect human rights. In order to further protect citizens' rights, the Basic Law stipulated that it was

¹²² Israelis living in the West Bank, Gaza Strip and East Jerusalem are subject to Israeli laws.

¹²³ Transparency International. National Integrity System Study: Palestine. Coalition for Accountability and Integrity—AMAN and Transparency International, 2009.

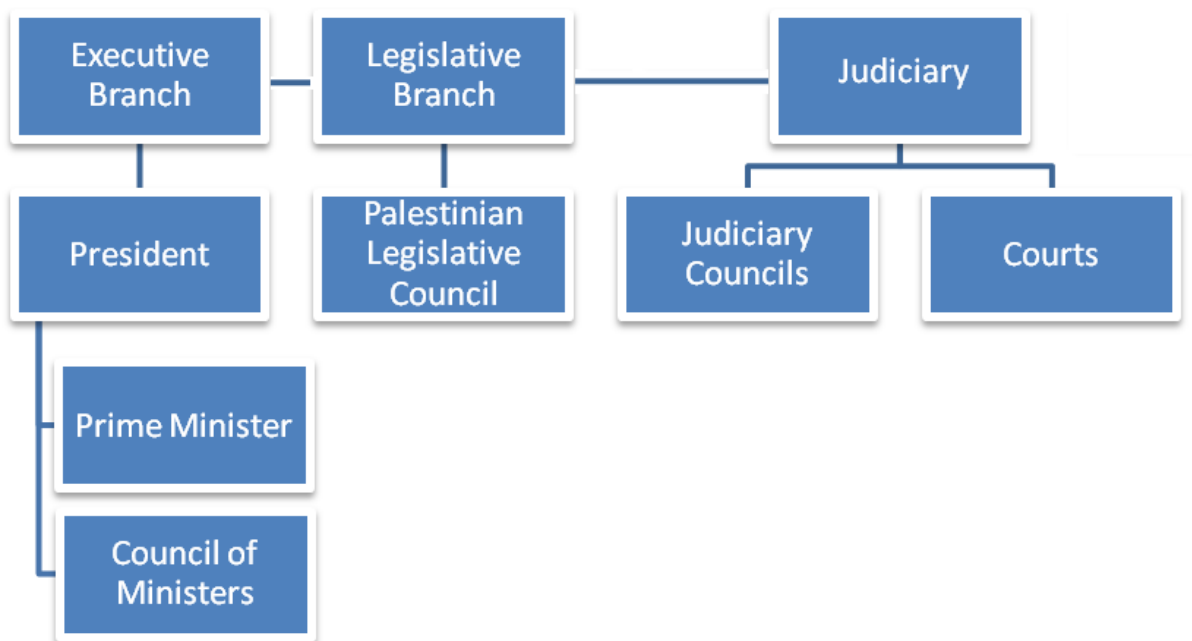
¹²⁴ (The Palestinian Basic Law n.d.)

¹²⁵ (Jamal 2001)

unlawful to arrest, search, imprison, restrict the freedom, or prevent the movement of any person, except by judicial order.¹²⁶

One of the salient features of the Palestinian Basic Law was that it established new roles within the judiciary, and called for a separation of powers between the executive, legislative, and judiciary branches of government. Figure 2 displays the hierarchical Palestinian governance structure as it exists today, which is largely shaped by the Palestinian Basic Law.

Figure 2: Palestinian Governance Structure



Source: (Arab Political Systems: Palestine n.d.)

Table 4 lists the components of the Palestinian executive branch, including the roles of president, prime minister and council of ministers, along with their key responsibilities as stipulated by the Basic Law.

¹²⁶ (The Palestinian Basic Law n.d.)

Table 4: Palestinian Executive Branch

| President | Prime Minister | Council of Ministers |
|--|---|---|
| Is an elected official who appoints and dismisses the prime minister. | Is appointed by the president and the appointment does not require ratification by PLC. | Is appointed by the prime minister in consultation with the president. |
| Initiates and proposes laws to the PLC. | Forms the cabinet in consultation with the president. | Must receive a vote of confidence from the PLC. |
| Can veto legislation within 30 days of its adoption by the PLC. | | Proposes laws, issues regulations, and takes the necessary actions to execute laws. |
| Appoints and dismisses the prime minister. | | Controls the security services, while acknowledging the president's role as "commander in chief." |
| Is the commander in chief of the armed forces. | | Prepares the general budget to be presented to the PLC. |
| May declare a state of emergency that cannot last longer than 30 days. The state of emergency may be extended another 30 days with approval of the PLC. During a state of emergency, basic rights may not be infringed and the legislature may not be suspended. | | |
| Serves a four-year term and cannot be elected for more than two consecutive terms. The president could only be removed by death, resignation, or a determination of incompetence by a ruling of the High Constitutional Court along with a two-thirds majority of the PLC. | | |
| Is replaced by the speaker of the PLC for a maximum of 60 days in case of death, resignation, or incompetence. | | |
| May issue decrees with the force of law in exceptional circumstances while the PLC is not in session, which are subject to the approval of the PLC when it convenes. | | |
| Initiates and proposes laws to the PLC. | | |
| Can veto legislation within 30 days of its adoption by the PLC. | | |

Source: (Arab Political Systems: Palestine n.d.)

Table 5 lists the key responsibilities of the Palestinian legislative branch, specifically the PLC as stipulated by the Palestinian Basic Law. When in session, the PLC complained of being

marginalized by the executive authority. However, following Arafat's death, the PLC reinvigorated its activity, and commonly summoned senior executive officials to testify before it.¹²⁷

Table 5: Palestinian Legislative Branch Key Responsibilities

| Palestinian Legislative Council |
|--|
| Is made up of 132 members elected to five-year terms, and the president serves as a member of the Council. |
| Initiates and passes legislation. |
| Can overturn a presidential veto of its proposed legislation by a two-thirds vote. |
| Can amend the Basic Law with a two-thirds vote. |
| Confirms or rejects the prime minister upon nomination by the president and approves the PA's budget. |
| Confirms or rejects all government cabinet positions proposed by the prime minister. A no-confidence motion can be proposed by the prime minister or by at least ten members of the council. |
| Can question ministers but not the president of the PA. |
| Cannot be dissolved during a state of emergency. |
| Has two ordinary sessions every year, that lasts no longer than three months. |
| Takes decisions by a simple majority of the members present, except as otherwise noted. |

Sources: (Arab Political Systems: Palestine n.d.)

Table 6 lists the key responsibilities of the Palestinian judiciary as stipulated by the Palestinian Basic Law.

Table 6: Palestinian Judiciary Key Responsibilities

| Judiciary Council | Courts |
|--|---|
| The High Judicial Council exercises significant authority over the judiciary. It reviews policies regarding the structure and function of the judiciary, and appoints, promotes, and transfers judges. | Courts of Appeal review cases that have been decided by a lower court of law. Petitions may be made to a higher court for the purpose of overturning the lower court's decision. |
| | District Courts are multi-judge courts that hear more serious civil and criminal matters, as well as appeals to judgments of the Magistrate Courts. |
| | Magistrate Courts are single-judge courts that hear minor civil and criminal matters. |
| | The Supreme Court is composed of two departments: a Court of Cassation that serves as the final court of appeals for civil, criminal, and commercial matters and a High Court of Justice for administrative disputes. |
| | Military courts have jurisdiction over police and security force personnel and crimes by civilians against PSF. ¹²⁸ |
| | Shari'a courts operate for Muslims and other Palestinian religious communities have their own courts. ¹²⁹ |

Sources: (Arab Political Systems: Palestine n.d.)

¹²⁷ (Arab Political Systems: Palestine n.d.)

¹²⁸ HRW reported that PA military courts stopped exercising jurisdiction over civilians beginning in January 2012. Human Rights Watch. *Country Summary: Israel/Occupied Palestinian Territories*. Human Rights Watch, 2012.

¹²⁹ "Palestinian Authority granted the shari'a courts administrative and financial independence and they proceeded to accumulate greater power than ever before" and that "in 2002, the Palestinian High Court ruled that it could not intervene in the decisions made by shari'a courts." (Shehada 2009)

The Palestinian Basic Law established that Palestine is a parliamentary democracy built on the separation of powers among the legislative, executive, and judicial branches. The Basic Law provided the framework for the judiciary, calling for the creation of a High Judicial Council (HJC) and a High Constitutional Court. The High Constitutional Court is more commonly referred to as the High Court and has the authority to review laws and to determine their constitutionality. In 2000 the HJC took over judicial matters formerly administered by the PA Ministry of Justice (MoJ).¹³⁰ Table 6 shows that the HJC exercises significant authority over the judiciary. It reviews policies regarding the structure and function of the judiciary, and appoints, promotes, trains, and transfers judges.

In addition to allowing for administrative courts, the Basic Law also enabled Shari'a Courts for Muslims and religious courts to continue to operate, particularly to handle family matters by Palestinians who prefer Shari'a courts.¹³¹ While secular groups had originally lobbied for no mention of Shari'a Law, the Basic Law established that the principles of Islamic Shari'a Law would be a source of legislation. It also established military courts to handle military affairs involving police and security force personnel. The Basic Law established that all governmental bodies and individuals would be subject to the rule of law and every Palestinian should have the right to access the judicial system.¹³²

Nathan Brown praises the Basic Law as one of the most liberal constitutional documents in Arab history.¹³³ While the Basic Law inched Palestine closer to the rule of law and separation of powers, there have been a plethora of setbacks along the way. For instance, while the Basic Law called for the implementation of judiciary rulings, the judiciary has experienced regular interference by the executive branch, which has been slow to accept the powers given to the judiciary and often

¹³⁰ (Arab Political Systems: Palestine n.d.)
(The Palestinian Basic Law n.d.)

¹³¹ The Carnegie Endowment reports "Shari'a courts operate for Muslims and other Palestinian religious communities have their own courts."
(Arab Political Systems: Palestine n.d.)

¹³² (The Palestinian Basic Law n.d.)

¹³³ Brown, Nathan. "Constituting Palestine: The effort to write a basic law for the Palestinian Authority," *The Middle East Journal* 54, no 1 (2000): 25-43, 26.

has not respected High Court rulings. Furthermore, Palestinian security agencies have often been reluctant to enforce High Court rulings.¹³⁴

Additional important legislation relating to the judiciary the PA passed includes the Law of the Formation of Civil Courts of 2001 and the 2005 Law on Illicit Gains.¹³⁵ The Judicial Authority Law (JAL) of 2002 was also an important piece of legislation as it “regulated the Palestinian judicial system, including magistrate, first instance, appeal, and high courts as well as the office of the attorney general.” Further, it gave the High Justice Court the power to nominate judges for appointment to the judiciary.¹³⁶ Controversy erupted in 2005 when the President amended the JAL by presidential decree. The changes in the JAL would have changed the composition of the HJC and the appointment procedure for the attorney general, and ultimately, would reduce the power of the judicial council and transfer powers to the MoJ, which would have administrative authority over the judiciary. The changes, however, did not go into place as the Palestinian High Court responded by overturning the presidential decree in question in its capacity as Constitutional Court.¹³⁷

Ending the Occupation, Establishing the State Judiciary Objectives

The PA recognized the weaknesses of the judiciary and in July 2009 hosted a United States Agency for International Development (USAID)-funded training conference held in Bethlehem on the theme “Towards an Independent Judicial Authority.” More than 130 judges from the various courts in the West Bank and three High Court judges from the Gaza Strip took part in this educational conference. Against the backdrop of a struggling judiciary, the PA released *Ending the*

¹³⁴ (Transparency International 2009)

¹³⁵ Milhem, Feras, and Jamil Salem. “Building the Rule of Law in Palestine: Rule of law without freedom.” In *International Law and the Israeli-Palestinian Conflict: A rights-based approach to Middle East peace*, edited by Susan M. Akram, Michael Dumper, Michael Lyk and Iain Scobbie, 253-275. New York, New York: Routledge, 2011, 257, 265.

¹³⁶ (Jamal 2001)

¹³⁷ Carnegie Endowment for International Peace. “Confusion in Fatah after Primaries, Final Round of Palestinian Municipality Elections, Judicial Law Overturned.” *Carnegie Endowment for International Peace*. December 20, 2005. <http://www.carnegieendowment.org/2008/08/20/confusion-in-fatah-after-primaries-final-round-of-palestinian-municipal-elections-judicial-law-overturned/6dp2> (accessed November 4, 2012). (Milhem and Salem 2011, 257-258)

Occupation, Establishing the State in August 2009, with plans to make the judiciary more independent and impartial. Further, the PA sought to protect citizens' fundamental rights and freedoms, as well as enhance justice sector performance through the implementation of the plan.

The plan includes reforms in the civil and criminal justice areas, as a part of an overall effort to reform Palestinian governance. The PA outlined its aims relating to civil and criminal justice in the plan, stating: "the Government will develop and consolidate (the) civil and criminal justice system (by) bolstering the principle of the separation of powers, building capacities of human resources within the judiciary, police, and civil defence [*sic*], enacting modern legislation, and providing appropriate infrastructure to ensure enhanced performance."¹³⁸ In the plan, the PA outlined specific objectives for the MoJ that would protect citizens' fundamental rights and freedoms and enhance justice sector performance. Table 7 outlines these objectives.

Table 7: PA Ministry of Justice Reform Goals for 2009-2011

| Protect citizens' fundamental rights and freedoms | Enhance justice sector performance |
|---|---|
| Developing, in cooperation with all relevant public institutions, an integrated civil and criminal legal framework which safeguards separation of powers and ensures the integrated operation of all sector institutions. | Supporting the development of specialization in the justice sector, developing specialist courts and specialized staff in fields of commercial disputes, labour, etc. |
| Developing the forensic medicine capacity. | Supporting continuing education through the Palestinian Judicial Institute. |
| Contributing to developing and rejuvenating the Bureau of the Legal Counsel and Legislation, a bureau of the Ministry of Justice. ¹³⁹ | Constructing justice facilities, including courthouses and public prosecution offices, throughout governorates. |
| Monitoring administrative performance in prisons to safeguard human rights. | Supporting computerization in the justice sector, including the police, public prosecution and courts. |
| Developing and implementing legal aid programs for citizens who are incapable of defending themselves for financial reasons. | Supporting the development of professional capacities, including members of the public prosecution service and judges. |
| Following up on the execution of court judgments. | |

Source: (Palestinian National Authority 2009)

Judiciary Plan Results

The World Bank provided a positive assessment of the PA's effort to modernize its legal framework, stating that this "is being done in a consultative manner, involving civil society, the

¹³⁸ (Palestinian National Authority 2009)

¹³⁹ The Bureau of the Legal Counsel and Legislation drafts and publishes legal regulations in the Palestinian Official Gazette.

private sector, and academic experts.”¹⁴⁰ In 2011, the United Nations Special Coordinator Office for the Middle East (UNSCO) provided a similar positive assessment, crediting the PA with demonstrating its ability to carry out core governance functions and reported that “there have [also] been significant advances in the rule of law and justice sector, including the drafting of legislation, and regulations to ensure compliance with international human rights norms as well as improved access to legal services and enhanced institutional capacity.”¹⁴¹ Some of the key legislation the PA ministries have drafted includes a Palestinian Penal Code and a Palestinian Juvenile Justice Law. It is critical for the PLC to reconvene in order to pass newly drafted legislation into law. In the interim, the only laws that are passed are through presidential emergency decrees.

Further, the PA made progress toward establishing a Palestinian Chamber for Arbitration and Mediation. New judges and prosecutors were recruited, and a legal skills diploma was designed for continuing professional training.¹⁴² In February 2011, the MoJ organized a workshop for experts in criminal law. Through brainstorming sessions, workshop participants worked towards drafting a modern criminal code and other legislation.¹⁴³

In 2010, the World Bank reported on specific recent accomplishments in the judicial sector, which are listed in Table 8.

¹⁴⁰ The World Bank. *Sustaining Achievements in Palestinian Institution-Building and Economic Growth*. Economic Monitoring Report to the Ad hoc Liaison Committee, The World Bank, 2011.

¹⁴¹ Office of the United Nations Special Coordinator For the Middle East Peace Process (UNSCO). *Palestinian State-Building: A Decisive Period*. Ad Hoc Liaison Committee Meeting, Brussels: UNSCO, 2011.

¹⁴² (UNSCO 2011)

¹⁴³ (The World Bank 2011)

Table 8: Key Palestinian Judiciary Reforms

| |
|---|
| Establishment of an Anti-Corruption Court |
| Establishment of a Customs Court |
| Litigants are now witnessing much more speedy trials |
| Court decisions are being more regularly enforced and honored. |
| The number of cases filed before courts is increasing, indicating the public's confidence in the justice sector is increasing. |
| Appointment and promotion of judges and public prosecutors is done through a more transparent and objective process, including written and oral exams/competitions. |
| The Supreme Judicial Council (SJC) rotates judges to different governorates to reduce conflicts of interest. |

Source: (The World Bank 2011)

Notably, the PA established the Anti-Corruption Court in 2010 and the Customs Court in 2011. Foreign Policy reported that in November 2011, “the Palestinian prosecuting-general charged Economy Minister Hassan Abu Libdeh with corruption.” Further, the Palestinian Anti-Corruption Commission charged the Agriculture Minister, Ismail Daiq with corruption.¹⁴⁴ These new initiatives, legislation, and their implementation at the highest levels of the PA are significant achievements and show the PA’s ability to set goals, commit to, and achieve them, and have given the PA increased legitimacy.

Judiciary Challenges and Summation

Despite the progress that the PA has made in regards to the rule of law and justice, the judiciary continues to be plagued with problems including persistent political interference, insufficient legislation clarifying roles, and an inability to guarantee Palestinians their rights as outlined in the Palestinian Basic Law. UNSCO reports that the PA needs to work to clarify the roles and responsibilities of the MoJ, the HJC and the Attorney General’s office.¹⁴⁵ Milhem and Salem explain, “The HJC lacks sufficient capacity and institutional design to efficiently administer the courts. As it stands, the HJC is simply not equipped to perform this additional task...There are no by-

¹⁴⁴ Schanzer, Jonathan. "The End of Fayyadism." *Foreign Policy*, December 14, 2011.

¹⁴⁵ (UNSCO 2011)

laws for the different departments of the HJC, so they lack clear institutional guidance or clarity concerning their respective responsibilities.”¹⁴⁶ The World Bank adds, “The jurisdictions and powers among the main justice sector institutions -- the MoJ and the SJC -- have not yet been clearly delineated in law.”¹⁴⁷ Clearly, additional legislation is needed to outline HJC responsibilities for the court system and the PA should improve coordination among justice sector institutions.

In 2010, Nathan Brown outlined serious flaws in regard to the rule of law and the judiciary, indicating that PA security services routinely act outside the law while politics often prevailed over justice in the courts. He argued that rivalries are rampant in the legal system and there are systemic human rights abuses. He noted that in 2009, Prime Minister Salam Fayyad made an effort to stem human rights abuses, specifically torture, though these abuses continued by the security forces, albeit slightly less frequently than in the past. Under the guise of improving security, Hamas supporters were targeted, denied, or fired from jobs, detained unfairly and tortured. Brown reports: "In the West Bank... [t]eachers sympathetic to Hamas have simply been fired in almost certain violation of the law, and the courts have closed their eyes."¹⁴⁸ Al-Haq, an independent Palestinian non-governmental human rights organization, revealed cases of arbitrary detention and illegal abuse and torture of Palestinian civilians by the PA and Hamas authorities throughout the reform years.¹⁴⁹ Comprehensive data is not available to determine the prevalence of the abuses and corruption in the courts, though it is clear the problem remains.

To maintain the support of the Palestinian people, the PA must further efforts to make the court system independent of political pressures and do everything within its powers to reform the justice sector and deliver on the promises of an independent and impartial judiciary as established in the Palestinian Basic Law and reaffirmed in the plan *Ending the Occupation, Establishing the State*.

¹⁴⁶ (Milhem and Salem 2011, 258)

¹⁴⁷ (The World Bank 2011)

¹⁴⁸ (Brown, Are Palestinians Building a State? 2010)

¹⁴⁹ *Al-Haq*. <http://www.alhaq.org/> (accessed December 4, 2012).

CHAPTER FIVE

Analyzing the Palestinian Security Sector

“There is a consensus [within the diplomatic community] that the Fayyad government has delivered, and the cornerstone of his success is security reform. Improvements in all other sectors, including the gradual economic growth, are utterly dependent on the performance of the security forces.”

---Western Diplomat in an International Crisis Group interview, January 2010¹⁵⁰

Safety and security are basic human needs and individuals will go to great lengths to ensure a sense of security. Achieving security has been a difficult challenge for Palestinians and Israelis because their interests, particularly land, dictate a threat to the other's sense of security. Both the Israeli and Palestinian governments, however, have demonstrated an understanding of the critical link between delivering a secure environment for their citizens and advancing peace. Security is perceived by Palestinians and Israelis and their governments in different ways, and the different perspectives influence government policies.

Since the establishment of the Palestinian Security Forces (PSF) in 1994, its forces have gradually taken on more responsibilities in areas of the WBGS.¹⁵¹ In recent years, the PA has placed a policy emphasis on the further development of the Palestinian security sector and this chapter will evaluate the implementation of the PA's security objectives that it laid out in its *Ending the Occupation, Establishing the State* reform plan. The complex security situation in the West Bank will be explored in this section, including the ongoing tensions between Israelis and Palestinians; the nonviolent resistance movement; the GoI and its citizens' role in security in the West Bank; and the

¹⁵⁰ International Crisis Group. *Squaring the Circle: Palestinian Security Reform Under Occupation*. Middle East Report No. 98, International Crisis Group, 2010.

¹⁵¹ In 2007, Hamas leadership in the Gaza Strip ousted the Palestinian Security Forces and maintain their own security forces.

PA and GoI's inclination to value state security over human security for Palestinians. The information in this section almost exclusively relates to security in the West Bank, and does not discuss the vastly different security situation in the Gaza Strip under Hamas rule.

Security Defined

Shaped by historical experiences including the ongoing Israeli-Palestinian conflict and the Israeli occupation of the WBGS, Israelis and Palestinians have fundamentally different concepts of security, which are at odds with each other. Both the PA and the GoI have acknowledged and agreed that a secure environment in Israel and Palestine will not only increase the safety and security of their citizens, but also increase investor and public confidence in their governments, and lead to social, political, and economic progress.

For Israelis, the First (1987-1993) and Second (2000-2005) Intifadas along with the Hamas takeover of the Gaza Strip left enduring painful memories of Palestinian suicide attacks, barrages of rocket of attacks, and stone-throwing by Palestinians in the WBGS. While the Intifadas have subsided and the security situation for Israelis has vastly improved in recent years, there continue to be ongoing missile attacks from the Gaza Strip, stone throwing at Israeli soldiers and civilians by Palestinians, and violent clashes between Israeli settlers and Palestinians in the West Bank.¹⁵² Israeli Defense Forces (IDF) and PSF regularly uncover Palestinian plots to attack Israelis and the Palestinian suspects and perpetrators are jailed.¹⁵³

The ongoing violence not only results in physical injuries and the deaths of Israelis, but it also creates an environment of emotional stress and fear that results in negative political and economic implications. Following bouts of violence, tourism suffers and businesses that employ Palestinians traveling from the West Bank into Israel are affected when their employees cannot make

¹⁵² The public had a lower, yet still high level of fear of a terrorist attack on themselves or family members at 70% in 2009, which was well down from 92% in 2007.

Meir, Yahuda Ben, and Olena Bagno-Moldavsky. *Trends in Israeli Public Opinion on National Security 2004-2009*. Memorandum No. 106, The Institute for National Security Studies, 2010.

¹⁵³ The Palestinian Security Forces are also known as the Presidential Guards.

it to work on time or at all due to increased security screening measures. When Israelis are injured by Palestinians, they grow frustrated with Palestinian leadership and the inability of Israeli security forces and the government to protect them, and demand political action or changes in leadership and are less likely to support a peace process with Palestinians.¹⁵⁴

Memories of a volatile past and the experiences of a violent present have made national security the primary concern of the Israeli public. The prevalent perception as touted by the GoI, is perceived pervasive existential threats to the State of Israel and a distrust of regional actors, even avowed peace partners in the region such as Egypt and Jordan. The Israeli government places the security of its citizens as its highest priority, and demands this of Palestinian leaders as well. Hence, Israel maintains a powerful army that actively intervenes to mitigate actual and perceived security threats within Israel and the region and especially in the WBGS and coordinates activities with the PSF.¹⁵⁵ For its citizens—whether in Israel, in the WBGS or abroad—the GoI has shown an exceptional resolve to go to great lengths to ensure their safety, even at the expense of the rights of Palestinians.¹⁵⁶

The GoI frames the discussion of security around Israeli security needs and acquires substantial international support to advance its objectives to achieve that aim. While the GoI's primary security focus is on mitigating threats by Palestinians and Arab states, it also mitigates internal security threats by Jewish extremists, which have increased in recent years.

The demands made by the GoI through two decades of bilateral peace negotiations with Palestinians aimed at resolving the Israeli-Palestinian conflict have helped to clarify their perception

¹⁵⁴ (Journal of Palestine Studies 2010)

¹⁵⁵ In 2009, Israelis reported higher levels of individual and state security than in previous years, and 80% of those surveyed trusted that the GoI was capable of coping with security threats. (Meir and Bagno-Moldavsky 2010)

¹⁵⁶ Human Rights Watch reports that Israel regularly engages in arbitrary detentions of Palestinians, with 272 Palestinians in administrative detention without charge in 2011. Israeli courts often use coerced statements of children who are arrested and coerced into signing confessions in Hebrew which they don't understand. More information about ensuring Israeli security at the expense of Palestinian rights will be provided later. (Human Rights Watch 2012)

of security. Israel has sought Palestinian acquiescence in subduing threats of Palestinian violence within the PA's jurisdiction, a mere 17.2 percent of the West Bank known as Area A.¹⁵⁷ While seeking Palestinian participation in security matters, Israel has been reluctant to view Palestinians as fully capable partners in providing security for Israeli citizens and has retained overarching control over security within the WBGS as granted by provisions in the Oslo Accords. Israel has shown skepticism that a peace agreement with Palestinians will result in enhanced security for its citizens. It has insisted upon an improved security environment and security guarantees from Palestinians as a prerequisite to a peace agreement, also known as the Israeli "Security First" objective.¹⁵⁸

'Security first' encapsulates a set of conditions that Israel has set for Palestinians to meet in order for Israel to engage in peace talks and perhaps a "partial, phased and conditional" withdrawal.¹⁵⁹ Even with a peace deal, Israel has indicated that it intends to maintain a military presence in a Palestinian state.¹⁶⁰ At the commencement of Middle East peace talks in September 2010, Israeli Prime Minister Benjamin Netanyahu's remarks reflect the preeminence Israeli security plays in all Israeli-Palestinian diplomatic considerations. He said: "We left Lebanon, we got terror. We left Gaza, we got terror. We want to ensure that territory we concede will not be turned into a

¹⁵⁷ (Palestine Economic Policy Research Institute (MAS) and the World Bank 1999, 39)

¹⁵⁸ Khan, Mushtaq H. "'Security First' and its implications for a viable Palestinian State." In *Aid Diplomacy and Facts on the Ground: The Case of Palestine*, edited by Michael Keating, Anne Le More and Robert Lowe, 59-73. London: Royal Institute of International Affairs, Chatham House, 2005.

¹⁵⁹ Dajani, Omar. "No Security Without Law." In *International Law and the Israeli-Palestinian Conflict: A rights-based approach to Middle East peace*, edited by Susan M. Akram, Michael Dumper, Michael Lyk and Iain Scobbie, 184-206. New York: Routledge, 2011.

¹⁶⁰ During the Middle East Peace Summit at Camp David of July 2000, Israel presented its security proposal for an Israeli-Palestinian peace agreement and Palestinian state. With regards to a Palestinian state, Israel proposed maintaining a permanent security presence along 15 percent of the Palestinian-Jordanian border, maintaining the right to deploy the Israeli army in the Palestinian state in the event of an emergency or threat from the East, stationing an international force in the Jordan Valley (including the eastern strip of the West Bank in the South), and setting up Israeli radar stations permanently inside the Palestinian state and use Palestinian airspace. Further, the Palestinian state would not be permitted to acquire an air force or heavy weapon systems and would be demilitarized with the exception of its paramilitary security forces, which would be required to gain Israeli approval prior to making alliances.

Sher, Gilead. *The Israeli-Palestinian Peace Negotiations, 1999-2001: Within Reach*. New York: Routledge, 2006.

third Iranian-sponsored terror enclave aimed at the heart of Israel.”¹⁶¹ It should be noted there is internal dissent within Israel regarding the GoI’s “Security First” model and there are individuals and groups who advocate for a policy based on human security for Israelis and Palestinians.¹⁶²

On the Palestinian security side, Palestinians and the PA perceive the removal of an Israeli military presence and sovereign control over Palestinian territory as essential for securing Palestinian individual and collective rights, along with security for Israelis. While Palestinian security is a high concern amongst Palestinians, it is not their top concern; rather, issues relating to the economy, specifically “job/money” have consistently been at the top, as reported in public opinion surveys from 2009-2011.¹⁶³ The stated PA security objectives are to provide security for its citizen and to hold the PSF accountable to the rule of law and to uphold human rights and freedoms. Upon a close evaluation, however, it is evident that providing security to the GoI and its citizens is often times a PA goal that is elevated higher than goals relating to providing individual Palestinian security needs and demands.¹⁶⁴

Particularly following the Second Intifada, the PSF in the West Bank has worked in tandem with Israeli police forces to achieve the PA and Israel’s security objectives. While together they have made positive strides toward creating a safer environment for Israelis and Palestinians, particularly in the West Bank, the IDF and PSF have at times forfeited their duty to protect Palestinians’ most basic rights, drawing criticism and resentment amongst Palestinians. While working towards achieving security for Palestinians and Israelis, the underlying motivation of the PA is to achieve its main objective, which as stated above, is to end the occupation of Palestinian lands.

¹⁶¹ The Telegraph. “Netanyahu calls Abbas ‘my partner in peace’.” *The Telegraph*. September 2, 2010. <http://www.telegraph.co.uk/news/worldnews/middleeast/israel/7976636/Netanyahu-calls-Abbas-my-partner-in-peace.html> (accessed December 3, 2012).

¹⁶² One of the most prominent human rights groups is B’Tselem, an NGO founded in 1989 by Israeli public figures that focuses its efforts on educating the Israeli public about human rights violations in the WBGS and advocates for Israeli policy change in the WBGS.

B’Tselem-The Israeli Information Center for Human Rights in the Occupied Territories. <http://www.btselem.org/> (accessed January 4, 2013).

¹⁶³ Palestinian Center for Public Opinion. *Poll No. 177*. Poll, Palestinian Center for Public Opinion, 2011.

¹⁶⁴ (Palestinian National Authority 2009)

The PA has shown an inability to protect Palestinian citizens from unlawful acts by Israeli citizens and the GoI. On a daily basis, Palestinians, especially those who live in Area C under Israeli jurisdiction, face physical threats and threats to their land and property.

Suspected Israeli perpetrators of violence are subject to Israeli civil and criminal law, though more than 90 percent of all reports of Israeli settler violence are met with impunity by the GoI.¹⁶⁵ By contrast, Palestinian suspects are subject to military tribunals, which have a conviction rate of 99.74 percent.¹⁶⁶ Thousands of Palestinians who have been convicted of offenses or are being held in administrative detention without charge or trial reside in Israeli jails. Investigations by Israeli-based B'Tselem and bodies indicate cases of inhumane treatment.¹⁶⁷ Palestinian civil society has consistently advocated for the preeminence of Palestinian rights.¹⁶⁸ Conversely, the PA does not have the authority to detain or try Israelis for crimes committed against Palestinians. Israelis who have committed crimes in the West Bank and are held accountable by the GoI—with varying degrees of success.

The vast majority of Palestinians do not share Israel's belief that Israel's existence is under constant regional threat; rather, they view Israel as a powerful military force that has secured safety for its citizens by signing binding peace agreements with Jordan and Egypt. Palestinians similarly believe that a just peace agreement between Israelis and Palestinians that results in an independent and viable Palestinian state will provide security for the two peoples.

¹⁶⁵European Union. "EU Note on Settler Violence: Update to the EU Heads of Mission Report on Settler Violence from April 2011." *The Rights Forum*. February 2012, <http://www.rightsforum.org/eur2.html> (accessed December 3, 2012).

European Union. "EU Heads of Mission: Cover Note." *The Rights Forum*. February 2012. <http://www.rightsforum.org/eur1.html> (accessed December 3, 2012).

¹⁶⁶ Levinson, Chaim. "Nearly 100% of all military court cases in West Bank end in conviction, Haaretz learns." *Haaretz*. November 29, 2011. <http://www.haaretz.com/print-edition/news/nearly-100-of-all-military-court-cases-in-west-bank-end-in-conviction-haaretz-learns-1.398369> (accessed April 15, 2012).

¹⁶⁷ (B'Tselem-The Israeli Information Center for Human Rights in the Occupied Territories n.d.)

¹⁶⁸ The Gaza City- based *Palestinian Centre for Human Rights* advocates for Palestinian rights. *Palestinian Centre for Human Rights (PCHR)*. <http://www.pchrgaza.org/portal/en/> (accessed December 5, 2012).

Palestinians who engage in violence against Israelis maintain that they are fighting to secure their rights and that peace can only be achieved once Palestinians have attained sovereignty over a recognized Palestinian state.¹⁶⁹ Those who engage in violence against Israel, like the militants within Islamic Jihad and Hamas, maintain that forceful resistance is a legitimate means to protest and end the occupation and achieve a recognized Palestinian state on either the 1967 borders or a state in all of historic Palestine, including present day Israel. Such groups are identified as terrorist groups by a handful of powerful countries, including the U.S. and Israel.¹⁷⁰

The PLO is the sole representative of the Palestinian people and does not endorse violence. The PLO and the PA have made strong efforts to reel in groups with violent tactics toward Israel or the PA. In an effort to enhance security and its monopoly over violence, the PA, in tandem with IDF forces, target militant groups in the West Bank. When dealing with individuals suspected of being affiliated with Islamic Jihad and Hamas the PSF at times forfeits its mandate to protect all citizens, targeting, injuring, jailing, or killing those individuals without due process of law.¹⁷¹ Further, the International Crisis Group reports: “The crackdown against the Islamists’ military branch seamlessly broadened into a far more controversial crackdown against its social and political manifestations and other forms of dissent.”¹⁷²

Palestinians have been reluctant to accept a continued Israeli presence in the WBGS as part of a peace solution. Dennis Ross, an American diplomat, author, and Special Middle East Coordinator under President Bill Clinton, was a leading negotiator in the Middle East Peace Summit at Camp David of July 2000. In his book, *The Missing Peace*, he commented on Israeli and Palestinian perceptions of security with regards to a future peace agreement saying, “Israelis must

¹⁶⁹ (Dajani 2011, 189-193)

¹⁷⁰ Although there is no universally accepted definition of terrorism, it can be broadly defined as violent acts directed at civilians that are intended to create fear and terror and are motivated by political, ideological or religious beliefs.

¹⁷¹ (Brown, *Are Palestinians Building a State?* 2010)

¹⁷² (International Crisis Group 2010)

face the fact that Palestinians will require an independent state in both appearance and reality. Carving up the West Bank, preserving buffer zones, and maintaining an Israeli presence all around the perimeter of the Palestinian state will not produce a solution.”¹⁷³

Both the GoI and PA have a strong motivation for creating a safe environment. Not only is it their responsibility to keep their citizens’ safe and secure, but strong security in the region also directly contributes to a viable economic environment.

While Palestinians and Israelis both can relate to the strong desire for security, it is important for the sides to recognize how their citizens and governments perceive security and understand each other’s security expectations. Former Israeli President Shimon Peres showed an understanding of the Palestinian security perspective by conveying: “Ultimately, you cannot fool history. If a nation wants one hundred percent security, it has to give its neighbor one hundred percent freedom, because a past enemy can be a future partner.”¹⁷⁴ It appears that the current leaders in the GoI underestimate the value Palestinians place on ending the occupation, having an independent state, and the potential security that could be attained with a permanent peace agreement with Palestinians. Palestinians may not understand the deep scars Palestinian attacks have left on the Israeli public and the repercussions, including increased domestic and international support for Israel’s “Security First” model following attacks. Palestinians and Israelis who engage in violence in an attempt to obtain security for themselves must be held accountable by their governments. The governments should hold accountable the perpetrators of violence while respecting human and legal rights.

The GoI feelings of insecurity manifest themselves in various degrees. Below are some of the more notable of these that are not related to security arrangements with the PA. Israel has not carried out certain obligations by international law such as the compensation of or repatriation of Palestinian

¹⁷³ Ross, Dennis. *The Missing Peace: The Inside Story Of The Fight For Middle East Peace*. New York, New York: Farrar, Straus and Giroux, 2004, 774.

¹⁷⁴ Gazit, Shlomo. *Trapped Fools: Thirty Years of Israeli Policy in the Territories*. Portland, Oregon: Frank Cass Publishers, 2003, xx.

refugees. Israelis fear the repatriation of Palestinians because a large scale repatriation of millions of refugees would make Israelis a minority in Israel. Israel has invested billions of U.S. dollars in creating and in purchasing advanced weapons technology and uses the security systems and weapons against Palestinians during times of conflict. Further, the GoI mandates required military service for its citizens and it invests in training and collaboration with the PSF. These are all examples of Israeli actions that are motivated by deep rooted security concerns and indicate Israel's extensive security reach within the WBGS.

Establishing the Palestinian Security Sector

Security considerations played a central role during the Israeli and Palestinian permanent status negotiations in 1999. Omar Dadani highlights its central role, stating, "Security issues were raised by one or both of the parties as a key component of virtually all of the other issues on the table – with respect to the location of borders, the disposition of Israeli settlements, the division of sovereignty and control over Jerusalem, the fate of Palestinian refugees, the allocation of water resources, and the framework for economic relations between Israel and Palestine."¹⁷⁵ Security remains highly important to Israelis and Palestinians and is a key component in advancing a viable and independent Palestinian state.

Prior to the security agreements in the Oslo Accords, Israel held full responsibility for maintaining the security of Palestinians and Israelis within Israel and the WBGS. With the Palestinian uprising against the Israeli occupation beginning in 1987, Israel was unable to maintain security throughout the WBGS, and its citizens' safety suffered as a result. Through the Oslo II Agreement, also known as the Interim Agreement that was signed on September 28, 1995, Israel transferred the monumental responsibility of restoring rule and order and security within areas of the WBGS to the newly formed PA. The agreement called for the creation of six security branches: Civil Police, Public Security, Preventive Security, Presidential Security, Intelligence, and Civil Defense.

¹⁷⁵ (Dajani 2011, 189)

The International Crisis group points out that the PA established additional security services as well, up to seventeen security branches in total at one point.¹⁷⁶

The security sector in Palestine was designed to include executive management and oversight bodies; justice and law enforcement institutions; security forces; legislative management and oversight bodies; and informal oversight institutions, all of which are outlined in detail in Table 9. Informal Insurgency groups, while not part of the formal security sector, are one component of the PSF.

Table 9: Components of the Palestinian Security Sector

| Executive Management & Oversight Bodies | Justice and Law Enforcement Institutions | Security Forces | Legislative Management & Oversight Bodies | Informal Oversight Institutions |
|--|---|----------------------------------|--|--|
| Presidency | Courts | Armed Forces | Palestinian Legislative Council (PLC) ¹⁷⁷ | Civil Society Organizations |
| Council of Ministers | Prosecution Services | Police | PLC Committees | Media |
| Ministry of Defense | Prisons | Intelligence and security forces | | Research Organizations |
| Ministry of Interior | Traditional Justice Systems, including Shari'a courts dealing with family matters | Informal Insurgency groups | | Advocacy Organizations |
| Ministry of Justice | | | | |
| Ministry of Finance | | | | |

Source: "What is the Security Sector?" *Marsad: Palestinian Sector Observatory*. <http://www.marsad.info/en/node/4> (accessed December 3, 2012).

The Interim Agreement stipulated that the PA would gradually take over the security administration in parts of the Gaza Strip and the West Bank. The PLO has criticized Israel for failing to fulfill the third redeployment from Area C.¹⁷⁸ The Interim Agreement established that Israel would retain the responsibility for external security, as well as the responsibility for overall security

¹⁷⁶ (International Crisis Group 2010)

¹⁷⁷ The Palestinian Legislative Council has not operated since 2007.

¹⁷⁸ PLO Negotiations Office. *Fact Sheet: Israeli Unilateralism—Undermining Peace*. PLO Negotiations Office, 2011.

of Israelis for the purpose of safeguarding their internal security and public order.¹⁷⁹ Jerusalem would remain under Israeli control until a decision was made during the final-status negotiations. The territorial designations of the West Bank shifted throughout the 1990s. The PA gradually assumed more control in Areas A and B and all of the Gaza Strip, except for in the Israeli settlements, which were eventually dismantled. Table 10 shows the evolving territorial designations in the West Bank.

Table 10: Territorial Designation of the West Bank

| | Oslo II (1995) | Wye River (1998) | Sharm Esh-Sheikh (1999) |
|--------|----------------|------------------|-------------------------|
| Area A | 2.0% | 9.1% | 17.2% |
| Area B | 26.0% | 20.9% | 23.8% |
| Area C | 72.0% | 70.0% | 59.0% |

Source: (Palestine Economic Policy Research Institute (MAS) and the World Bank 1999, 39)

By 1999, Area A constituted 17.2 percent, Area B constituted 23.8 percent, and Area C constituted 59 percent of the West Bank, though estimates of Area C during the reform years were at 62 percent of the West Bank.¹⁸⁰ Through the 1995 Interim Agreement, both sides agreed to carry out their security responsibilities “with due regard to internationally-accepted norms of human rights and the rule of law” and would “be guided by the need to protect the public, respect human dignity and avoid harassment.” Further, security obligations were not to interfere with the “normal and smooth movement of people, vehicles, and goods within the West Bank, and between the West Bank and the Gaza Strip.” Both sides agreed to take “all measures necessary in order to prevent acts of terrorism, crime and hostilities directed against each other, against individuals falling under the other's authority and against their property and shall take legal measures against offenders.”¹⁸¹

In the case of security-related disputes between Israel and the PA, the Accords stipulated that Israel and the PA should address security issues together, through bilateral dispute resolution, without involving international institutions or processes. Annex I of the Interim Agreement, The

¹⁷⁹ (Israeli-Palestinian Interim Agreement 1995)

¹⁸⁰ UN OCHA. Area C Humanitarian Response Plan Fact Sheet. United Nations, 2010.

¹⁸¹ (Israeli-Palestinian Interim Agreement 1995)

Protocol Concerning Redeployment and Security Arrangements, called for the creation of a Joint Security Coordination and Cooperation Committee (JSC) made up of five to seven members of each side to “deal with all security matters of mutual concern regarding this Agreement in the West Bank and the Gaza Strip” that would “deal with alleged violations, as well as differences relating to the application or implementation of the security arrangements set out in this Agreement.”¹⁸² Indeed, a JSC was created along with a bilateral dispute resolution system but proved to be largely ineffective. University of the Pacific professor Omar Dajani argues, “The Palestinians’ capacity to advance effective challenges to Israeli violations of individual or collective rights through the bilateral dispute resolution structures defined in the Accords was limited [however], by their narrow latitude for self-help or retaliatory action.” If Palestinians felt Israelis violated the Agreement or made unrealistic security demands, Palestinians could cease cooperating with Israeli security demands, but Israel held significant leverage in this regard. If Israel felt the PA violated the Agreement, it could withhold the transfer of clearance revenues and taxes to the PA, which it has, or refrain from the next stage of military redeployment.¹⁸³

Initially, it seemed that the stipulations in the Accords had the potential to create an environment conducive to safety for Palestinians within the WBGS, protect their ability to move freely within the WBGS, and provide recourse for disputes. However, the security agreements relating to Palestinian welfare and movement were overridden by critical caveats in the Accords giving priority to Israeli security interests, and effectively overriding security guarantees to Palestinians. One such provision gave Israel “overriding responsibility for security for the purpose of protecting Israelis and confronting the threat of terrorism.” Another caveat indicated “Nothing in this Article shall derogate from Israel's security powers and responsibilities in accordance with this

¹⁸² (Israeli-Palestinian Interim Agreement 1995)

¹⁸³ (Dajani 2011, 187)

Agreement.”¹⁸⁴ These critical caveats in the Agreements provided a scenario in which Palestinian security and movement within the WBGS were constantly subject to change, based on Israel’s perceived security needs. The Accords established that Israeli security was tantamount, thereby making agreements safeguarding Palestinian security uncertain.

The PA aimed to achieve security for Israel and the rule of law within its own jurisdiction—in part by denying Palestinians a sense of security. Those suspected of being affiliated with violence against Israelis and paradoxically those suspected of cooperating with Israel secretly faced illegal detention and treatment, and in the best case scenario, a trial.

The PA elevated Israeli security needs above the rights of Palestinians through the establishment of the Palestinian State Security Court. By a presidential decree, President Yasser Arafat established the State Security Court in 1995 to try cases involving security issues in the West Bank and the Gaza Strip. The court lacked almost all due process rights and many of those detained and tried in the courts were deprived of fundamental human rights. Inmates were often held without charges, tortured, denied the right to defend themselves in court, denied the opportunity of appeal if convicted of a crime, and some faced death by a firing squad.¹⁸⁵ The Israeli newspaper *Haaretz* published an article in 2003 discussing the creation of the court. The article stated, “When the State Security Court was established, Palestinian jurists immediately recognized that one of Arafat’s main tools was to bypass the rule of law and deliberately weaken judicial authority. Individuals tried in the court had no right to appeal their sentence.”¹⁸⁶

The Accords provided motivation and impetus for the PA to take measures to provide security, namely to Israelis, while the PA considered that security for Palestinians could only be

¹⁸⁴ (Israeli-Palestinian Interim Agreement 1995)

¹⁸⁵ (Arab Political Systems: Palestine n.d.)
(Freedom House 2012)

¹⁸⁶ Hass, Amira. “PA says the Palestinian State Security Court has been abolished.” *Haaretz*. April 8, 2003. <http://www.haaretz.com/news/pa-says-palestinian-state-security-court-has-been-abolished-1.13550> (accessed December 3, 2012).
(Arab Political Systems: Palestine n.d.)

secured through final-status negotiations. The Interim Agreements regulate Palestinian and Israeli security relations to this day, and continue to reflect the preeminence of Israeli security concerns. It is within this framework that the PSF operate.

Building on the Palestinian Security Sector

The long-delayed ratification of the Palestinian Basic Law in 2002 provided legal clarification regarding the roles of the PSF and police, potentially bringing enhanced security to Palestinians and Israelis. The Basic Law stipulated that the security forces and police would be responsible for defending the WBGS within its jurisdiction, serving the people, protecting society, and maintaining public order, security, and public morals. The security forces and police would be obliged to adhere to the limits prescribed by law, and would respect the rights and freedoms established by it. The PSF were mandated to operate in parts of the WBGS.¹⁸⁷ The Basic Law placed the security services under the control of the cabinet (council of ministers), while acknowledging the president's role as "commander in chief." The Palestinian Basic Law led to improved security for Palestinians, in part due to its role in leading the PA to abolish the unconstitutional Palestinian Security Court, along with abolishing the practice of trying Palestinian civilians in military tribunals.¹⁸⁸

While the Interim Agreement and the Palestinian Basic Law provide some basic legal framework for the PSF, further legislation needs to be created to regulate their work, which cannot happen until the PLC reconvenes. In 2005, two laws were developed that provided some clarification of duties within the PSF. The International Crisis Group explains: "The Law of Services in the Palestinian Security Forces (No. 8 of 2005) stipulated the merger of the forces into three branches and, for the first time, regulated the rights and obligations of security personnel and enshrined a promotion system based on professional performance. The PA also enacted the General Intelligence

¹⁸⁷ (The Palestinian Basic Law n.d.)

¹⁸⁸ (Hass 2003)

Law No. 17 to better regulate a particularly anarchic agency [the Palestinian Intelligence agency].”¹⁸⁹

The latter law defined the branch’s overall responsibilities, but lacked clarity on how its work was different from that of Preventive Security and Military Intelligence.¹⁹⁰

Ending the Occupation, Establishing the State Security Objectives

The security reforms in the PA’s *Ending the Occupation, Establishing the State* plan were a continuation of the extensive security objectives laid out in the PA’s 2008-2010 *Palestinian Reform and Development Plan* (PRDP). Annex E includes a list of reform goals laid out in the PRDP, a few of which include increasing the execution of court decisions, improving the quality and quantity of intelligence information, and improving the civil defense response rate to incidents.

From 2008 to 2010, the PA allocated US\$257 million to Security Sector Reform and Transformation, much of which was funded by U.S. external assistance.¹⁹¹ Table 11 displays the allocation of the PA development budget resources during 2008-2010, and the high priority given to Security Sector Reform and Transformation, within spending on government reforms.

Table 11: Allocation of PA Development Budget Resources
(US\$ millions)

| Program | 2008 (\$m) | 2009 (\$m) | 2010 (\$m) | Total (\$m) |
|---|---------------|---------------|---------------|----------------|
| Security Sector Reform & Transformation | 62 | 86 | 109 | 257 |
| Justice Now | 14 | 12 | 5 | 31 |
| Open and Accountable Government | 20 | 23 | 5 | 48 |
| Efficient and Effective Government | 15 | 21 | 35 | 71 |
| Accountable Local Government | 14 | 16 | 16 | 46 |
| Total | 125 | 158 | 170 | 453 |

Source: (Palestinian National Authority 2008)

The PA’s *Ending the Occupation, Establishing the State* plan laid out goals aiming to improve safety and security for persons and their property and to reform internal organization and security management. The PA set the expectation that the state security apparatus should adhere to

¹⁸⁹ (International Crisis Group 2010)

¹⁹⁰ The General Intelligence Law no. 17 of 2005 stipulated that the Head of the Palestinian General Intelligence should nominate a Deputy that would be appointed by the President.

¹⁹¹ (Palestinian National Authority 2008)

the rule of law, be accountable to an independent judiciary and be looked after by oversight bodies. Specifically, the PA assured, “It [the government] will also provide suitable training, equipment, and infrastructure to help the security sector improve its performance.”¹⁹² Table 12 lists the PA’s Ministry of Interior Objectives for 2009-2011 under the following categories: establishing rule of law and public safety, delivering services effectively, ensuring transparency, and developing relations.

Table 12: Palestinian Ministry of Interior Objectives 2009-2011

| Establishing rule of law & public safety | Delivering services efficiently | Ensuring transparency | Developing relations |
|---|---|--|--|
| Developing the capacity of restructuring and reorganizing the security establishment, and regulating each security agency in accordance with the law and relevant regulations. | Developing the organizational structures, systems and process of the MoI. | Implementing administrative and financial reforms in all branches of the security sector, including centralization of financial management and clarifying the jurisdiction of each branch to ensure effective integrated operations. | Guiding activities to represent Palestine as a full member in the International Criminal Police Organization (Interpol). |
| Continuing to train security staff, building security offices and headquarters, and providing modern equipment to help the security agencies perform their assigned tasks. | Building directorate offices and public service centers that offer high quality services. | Ensuring integrated and cooperative systems and working methods throughout the MoI in a manner that unifies and centralizes its administrative and financial management. | Developing MoI’s operations on committees established by the Arab Council of the Ministers of Interior as well as rejuvenating MoI’s role in the Mediterranean Civil Protection Program. |
| Completing development of laws regulating the functions of security agencies and preparing a code of conduct to protect citizens and safeguard public freedoms. | Automating service delivery and establishing connectivity with other institutions (e.g., the Civil Registry). | Developing a policy framework and strategic plan for implementing security sector development programs and projects. | Develop a code of conduct for Palestinian civil society activity. |
| Developing the capacity of, restructuring and reorganizing the security establishment, and regulating each security agency in accordance with the law and relevant regulations. | Developing the organizational structures, systems and processes of the MoI. | | Building media capacities of MoI so that it can effectively communicate with the Palestinian civil society. |
| | Developing the Law on Nationality & Passports. | . | |

Source: (Palestinian National Authority 2009)

¹⁹² (Palestinian National Authority 2009)

In order to achieve its security objectives during the reform period, the PA consistently allocated high levels of funding to the Ministry of Interior and National Security, which along with the Ministry of Public Works and Housing, implemented the majority of the security reforms and upgraded security infrastructure. Significantly, in 2009, the PA allocated more to the MOI than to any other ministry—a total of US\$929.9 million, which accounted for 32 percent of all PA expenditures.¹⁹³ The funds were used to hire, train and equip security personnel and to demobilize militias (mainly Hamas forces) across the West Bank.¹⁹⁴ From 2007 to August 2010, the U.S. appropriated nearly US\$400 million and provided training to support PA efforts to strengthen and reform the PSF and criminal justice systems in the West Bank.¹⁹⁵ Funds were used to increase the number of employees and enhance training within the security sector. The World Bank reports 64,000 individuals in the Palestinian security sector as of mid-2011, with 30,000 in the West Bank and 34,000 in the Gaza Strip.¹⁹⁶ In 2011, the PA added 1,325 new employees to the security sector.¹⁹⁷

The Quartet on the Middle East, consisting of the UN, the U.S., the EU and Russia, have supported and encouraged PA efforts at enhancing security. In March 2010, the Quartet released a statement endorsing Prime Minister Salam Fayyad's leadership in improving security, law and order in the West Bank and urged the international community to continue funding the PA's effort.¹⁹⁸

¹⁹³ Palestinian National Authority Ministry of Finance. *Table 6-B : Expenditures by Function (Commitment Basis)*. Palestinian National Authority, 2009.

¹⁹⁴ The World Bank. *A Palestinian State in Two Years: Institutions for Economic Revival*. Economic Monitoring Report to the Ad Hoc Liaison Committee, The World Bank Group, 2009.

A militia is an unauthorized group of people not part of the armed forces who arm themselves and complete training.
¹⁹⁵ (Zanotti 2010)

¹⁹⁶ (The World Bank 2011)

¹⁹⁷ The World Bank. *Stagnation or Revival? Palestinian Economic Prospects*. Economic Monitoring Report to the Ad Hoc Liaison Committee, The World Bank, 2012.

¹⁹⁸ US Department of State. *Joint Statement by the Quartet*. Media Note, Washington: US Department of State, 2010.

Security Plan Results

Improving the capabilities and performance of the PSF was a priority of the PA and Israel long before the *Ending the Occupation, Establishing the State* plan was launched in 2009. In September 2010, the International Crisis group reported: “The Palestinian Authority (PA) largely has restored order and a sense of personal safety in the West Bank...pursuing militant groups’ armed wings.”¹⁹⁹

Historically, Palestinians dealt with security issues in local communities and did not report to a central authority. Despite the creation of the central Palestinian security sector, the historic pattern of security decentralization has been slow to change.

A September 2010 International Crisis Group Report outlined PA security achievements and challenges the PA faced with its security branches. The report quoted a Palestinian ministry official who said, “We need to rein in the virtual autonomy of some security branches. For too long, some chiefs acted as if they, not the PA, owned their forces.”²⁰⁰ During the reform years, security coordination was poor even between President Mahmoud Abbas and Prime Minister Salam Fayyad. Security chiefs have been known to make decisions based on consultation with Fayyad and other political actors, but Abbas has been attempting to get the security chiefs to coordinate their activities with the Ministry of Interior. To advance this aim, beginning in April 2010, the prime minister, interior minister, and heads of security branches began meeting on a weekly basis to make strategic security decisions.²⁰¹

The U.S., EU, and Israel have exercised influential roles in strengthening Palestinian institutions that deliver security, training the PSF, and funding these operations. Further, cooperation between Israeli and Palestinian security forces rose to unprecedented levels during the reform years. In a report prepared by the GoI to the Ad Hoc Liaison Committee (AHLIC) in April 2010, the

¹⁹⁹ (International Crisis Group 2010)

²⁰⁰ (International Crisis Group 2010)

²⁰¹ (International Crisis Group 2010)

government reported that in 2009, Israeli and Palestinian military forces coordinated 1,297 operations, amounting to a 72% increase compared to 2008.²⁰² A year later, the GoI reported that in 2010, Israeli and Palestinian military forces coordinated 2,968 operations, amounting to a 118% increase compared to 2009. Further, in 2010, 686 joint bilateral meetings were held, amounting to a 26% increase compared to 2009 and in 2011, 764 joint security meetings were held.²⁰³ Notably, in 2010, the UN Secretary-General acknowledged that the PSF had emerged as a reliable security partner with Israel.²⁰⁴

A few examples highlight the collaborative reform efforts the PA engaged in to improve its security institutions and to provide security and safety for Palestinians and Israelis. In 2005, the PA began working with the U.S. government to implement a variety of U.S.-funded programs designed to train and equip PSF.²⁰⁵ One such program was a 19-week, U.S.-funded military course for Palestinians at the Jordan International Police Training Center. Training began in 2008, and as of October 2010, 3,000 out of a goal of 5,000 Palestinians had completed the training program.²⁰⁶ Senior and intermediate level Palestinian security officers attended leadership courses led by the U.S. Security Coordinator in Ramallah.²⁰⁷ The program provided jobs to local Palestinians and resulted in an increase in tips being reported and a reduction in crime.²⁰⁸ In addition to the training program, and

²⁰² State of Israel. *Measures Taken by Israel in Support of Developing the Palestinian Economy, the Socio-Economic Structure, and the Security Reforms*. Report of the Government of Israel to the Ad Hoc Liaison Committee, State of Israel, 2010.

²⁰³ State of Israel. *Measures Taken by Israel in Support of Developing the Palestinian Economy and Socio-Economic Structure*. Report of the Government of Israel to the Ad Hoc Liaison Committee, State of Israel, 2011.

State of Israel. *Measures Taken by Israel in Support of Developing the Palestinian Economy and Socio-Economic Structure*. Report of the Government of Israel to the Ad Hoc Liaison Committee, State of Israel, 2012.

²⁰⁴ (UNSCO 2011)

²⁰⁵ (The World Bank Group 2009)

²⁰⁶ Thrall, Nathan. "Our Man in Palestine." *The New York Review of Books*. October 14, 2010.

<http://www.nybooks.com/articles/archives/2010/oct/14/our-man-palestine/> (accessed December 3, 2012).

(International Crisis Group 2010)

²⁰⁷ (International Crisis Group 2010)

²⁰⁸ Kitfield, James. "United They Fall; Divided They Stand," *National Journal* 2009.

in conjunction with the PA's plan, the U.S. financed the construction of nine operational camps for the PSF in the West Bank and new interior ministry facilities in Ramallah.²⁰⁹

The EU also has been instrumental in assisting the PA achieve its security objectives. During recent years, the EU provided financing for infrastructure projects and training programs. The EU funded the reconstruction of two security headquarters in the West Bank that had been destroyed by Israel during the Second Intifada before cooperation between the IDF and PSF began. Further, the EU implemented a program called EU Police Mission in the Palestinian Territories (EUPOL COPPS) beginning in 2006. In the first four years of the EUPOL COPPS program, approximately 3,000 civil police officers received advice and training in areas of investigation, crime scene management, public order, public policing, administration, and internal oversight.²¹⁰

In addition to collaborative efforts aimed at strengthening the PSF, other promising security related developments transpired during the reform period. Trying civilians under military courts was illegal under Palestinian Basic Law, but had long been practiced. In January 2011, following significant campaigning by Palestinian human rights organizations and foreign diplomatic representatives, Palestinian General Intelligence officials announced that PA military courts would no longer be allowed to prosecute civilians in the West Bank. Further, civilians detained as a result of military arrest warrants were released and their cases were transferred to civilian courts.²¹¹

The previous examples show a few ways the PA is addressing security sector reform, which have not gone unnoticed. The Palestinian Center for Policy and Survey Research data shows that "In the last quarter of 2009, 63 percent of Palestinians felt secure compared with 32 percent in March 2008. Two thirds of Palestinians rated the provision of security services as good."²¹² The World Bank acknowledged the improved security situation for Israel. An August 2011 World Bank note states:

²⁰⁹ (International Crisis Group 2010)

²¹⁰ (International Crisis Group 2010)

²¹¹ Ma'an News Agency. "Rights group claims victory over PA justice system." *Ma'an News Agency*. January 18, 2011. <http://www.maannews.net/eng/ViewDetails.aspx?ID=352054> (accessed November 2, 2012).

²¹² (Palestinian National Authority 2011)

“virtually all Palestinian organizations operating in the West Bank have renounced violence and the security forces of the PA maintain close security ties with their Israeli counterparts.”²¹³

UNSCO released a report on Palestinian state building on April 13, 2011, acknowledging improvements in security administration in the West Bank, particularly with regards to daily policing. UNSCO attributed the improvements to cooperation between the GoI and the PA along with the American-led PA security force training program in Jordan. The IDF has also acknowledged improvements in Palestinian security capabilities. IDF Major General Mizrachi reported that security force performance in the West Bank was “excellent” one month after he assumed OC Central Command in 2010.²¹⁴

Different opinions prevail as to why there have been improvements in security in the West Bank. While the GoI credits positive security results to Israeli and Palestinian security force cooperation and increased training to Palestinian forces, a PA security official attributed the improvements to the increased operational area the PSF was able to work. As quoted in a report by the International Crisis Group, a PA official said, “The single most important factor in improving their [Palestinian security officials] performance is allowing them to perform. Israel has facilitated our work by increasing the PSF’s operational area... That is the basic condition for establishing control and attaining some kind of operational coherence.”²¹⁵

Within the PA, there is disagreement about external influence in Palestinian security reform efforts. A Hamas member of the PLC said in 2010, “The security agenda of the PA is not only foreign, but undermines the security interests of the Palestinian people. Ultimately, it represents Israeli and American interests.”²¹⁶

²¹³ UN OCHA. *West Bank Movement and Access Update*. United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA), 2011.

²¹⁴ (UN OCHA 2011)

²¹⁵ (International Crisis Group 2010)

²¹⁶ (International Crisis Group 2010)

Security Plan Shortfalls

Despite significant improvements in the competency of PSF and cooperation between Israeli and Palestinian security forces, ensuring security for Palestinians and Israelis has been exceptionally challenging, particularly in Area C where Palestinians live but the PA does not have jurisdiction over security. There, Palestinian and Israeli citizens clash amongst themselves over resources and ideological differences. Some Palestinian communities and international activists regularly protest the Israeli occupation, such as in the West Bank city of Nabi Saleh, often resulting in altercations. Further, while there have been fewer incidents than during the Intifadas, clashes between West Bank Palestinians and Israelis living in West Bank settlements in Area C continue to be commonplace and as a result, each year, hundreds of Palestinians and Israelis are injured and dozens are killed.

The ever growing number of Israeli homes and structures on land which Palestinians own in Area C of the West Bank complicate the PSF's ability to provide a secure environment for its citizens. Sometimes the settlers have Israeli permits, while others do not have permission by the Israeli government, but rather, claim justification on ideological grounds, such as that the land is given to Jews by God. These actions infringe on Palestinian rights, and sometimes the Palestinians pursue legal recourse, with limited success.²¹⁷

Sources provide varying estimates of the number of Palestinians and Israelis injured and killed due to clashes between Israeli settlers and Palestinian communities. The UN reports that between September 21, 2010 and February 20, 2011 in the West Bank, 545 Palestinians, a fifth of whom were children, were injured and 12 Palestinians were killed due to the actions of Israeli settlers or Israeli Security Forces. During the same period, 29 Israelis were injured by Palestinians and there were no deaths.²¹⁸ Shortly after the reporting period, in March 2011, Palestinians were responsible

²¹⁷ Lein, Yehezkel, and Eyal Weizman. *Land Grab: Israel's Settlement Policy in the West Bank*. B'Tselem, 2002.

²¹⁸ (UNSCO 2011)

for killing an Israeli family of five in an Israeli settlement in the West Bank and for a bombing in Jerusalem that resulted in one casualty and 28 injuries.²¹⁹

Human Rights Watch reports that from January 2011 to October 2011, Israeli settlers were responsible for injuring 167 Palestinians and killing two, while Israeli military forces were responsible for killing five Palestinian civilians in the West Bank, mostly demonstrators. During that timeframe, Israeli settlers were responsible for 377 attacks, damaging Palestinian property, including nearly 10,000 olive trees. Approximately nine percent of the Israeli perpetrators of the attacks were indicted by the IDF.²²⁰

Despite implementing significant steps toward reforming the Palestinian security sector, the PA has been criticized for not providing sufficient safety to both Palestinians and Israelis. In September 2010, the International Crisis Group reported: “The PA, Israeli and international security officials largely agree that Palestinian capabilities have improved, though the extent of the improvement, and the reasons for it remain somewhat in dispute, as does the question whether, without an IDF presence, Palestinian forces could ensure Israel’s security.”²²¹

With regards to the PA’s shortcomings in providing security to Israelis, in a report to the Ad Hoc Liaison Committee (AHLC), the GoI reported that the PA still had much work to do to reduce terrorist activities emanating from the West Bank.²²² Israel cited ongoing security concerns as the rationale for maintaining checkpoints and roadblocks.²²³ The GoI reported sustained high levels of Palestinian terrorist activity against Israeli targets in the West Bank and the Jerusalem Area in 2009 and 2010, particularly by members of Hamas. Israel’s report to the AHLC indicated there were 646 Palestinian terrorist attacks in 2009 and 89 attacks in the first two months of 2010 that emanated

²¹⁹ (State of Israel 2012)

²²⁰ (Human Rights Watch 2012)

²²¹ (International Crisis Group 2010)

²²² The Ad Hoc Liaison Committee (AHLC) was established on October 1, 1993 by the Multilateral Steering Group of the multilateral talks on Middle East peace. The AHLC seeks to promote dialogue between donors, the PA and the GoI.

²²³ (State of Israel 2011)

from or were carried out in the West Bank. Stone throwing by Palestinian youth and adults is classified as a terrorist activity and makes up a majority of the reported terrorist attacks. While Israel credited the PSF with making significant efforts to combat terrorism, it called the PA's efforts insufficient and suggested that the PA create legislation prohibiting Hamas. Additionally, Israel called on the PSF to do much more to uproot terrorist activities by prosecuting more suspected terrorists, incarcerating convicted terrorists, and confiscating weapons. Israel also called on the PA to improve the independent functioning of the justice system and increase prison space.²²⁴

Nonviolent Resistance Movement

Alongside violent opposition to the occupation, there has been a stronger nonviolent resistance initiative in the WBGS. In May 2011, a poll conducted by the Palestinian Center for Public Opinion showed that "69.9% oppose to varying degrees the launching of Al-Qassam rockets from Gaza into Israel."²²⁵ During the reform years, there was a growing worldwide movement to divest from companies profiting from activities in Israeli settlements in the West Bank and a boycott of goods produced in the settlements. This is part of a larger growing peaceful resistance movement led by Palestinians, Americans, Israelis, and other activists that aims to make the building of Israeli settlements economically unviable and bring to light other issues associated with the occupation.

In 2005, the Boycott, Divestment and Sanctions (BDS) campaign was launched by 171 Palestinian non-governmental organizations. South African leaders including Desmond Tutu, the Anglican archbishop emeritus of Cape Town and winner of a Nobel Peace Prize, supports divestment as a tool to end the occupation, as it was an effective tool to break down apartheid in South Africa.²²⁶

The campaign, now prevalent amongst civil society groups and college campuses worldwide, has

²²⁴ (State of Israel 2010)

Attacks using explosive devices, gunfire, stones and Molotov cocktails are among those considered terrorist activity by Israel.

²²⁵ (Palestinian Center for Public Opinion 2011)

²²⁶ Goodstein, Laurie. "Methodists Vote Against Ending Investments Tied to Israel." *The New York Times*. May 2, 2012. http://www.nytimes.com/2012/05/03/us/methodists-vote-against-ending-investments-tied-to-israel.html?_r=0 (accessed December 1, 2012).

United Methodist Kairos Response. <https://www.kairosresponse.org> (accessed December 15, 2012).

indicated it will continue promoting these actions until the GoI complies with international law and human rights, namely: 1) Ending its occupation and colonization of all Arab lands occupied in June 1967 and dismantling the Wall; 2) Recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality; and 3) Respecting, protecting and promoting the rights of Palestinian refugees to return to their homes and properties as stipulated in UN Resolution 194.²²⁷

The PA has channeled the frustrations of the masses with the ongoing occupation by encouraging and supporting a non-violent resistance movement, advocating divestment, boycott, marches, and other peaceful means of resistance over stones and guns. The peaceful resistance movement has negative economic repercussions in the Palestinian and Israeli economy. For example, Palestinian contractors refuse to use materials produced in Israeli settlements, even if the materials from the settlements are the lowest cost. It could be argued that while divestment and boycott certainly harm the Palestinian economy, the peaceful acts of resistance cause far less harm to the economy than a resistance movement based on acts of violence.

Beginning September 27, 2011 Palestinian prisoners revived the practice of hunger strikes to protest administrative detention without charges by Israel.²²⁸ Many high profile cases were covered in the media of prisoners refusing to eat until near death, increasing worldwide awareness and concern regarding the use of administrative detention without charges. While the GoI changed its policies, in practice, it continued to use administrative detention without charges. Supporters of the hunger strikes were arrested by Israel and held in administrative detention, but the hunger strikes have continued at a higher rate than in the past.²²⁹ Also, part of the nonviolent resistance movement

²²⁷ *Boycott Divestment and Sanctions Movement*. <http://www.bdsmovement.net/> (accessed December 15, 2012).

²²⁸ Administrative detention is detention without charge or trial that is authorized by administrative order rather than by judicial decree. Under international law, it is allowed only in the most exceptional cases, when there is no other alternative, and in a proportionate manner. B'Tselem challenges the extent to which Palestinians are held in Israeli jails under administrative detention, alleging this causes serious injury to due-process rights.

²²⁹ Winstanley, Asa. "Interview with Addameer's Mourad Jadallah: hunger strikes reignite prisoner movement." *The Electronic Intifada*. March 1, 2012. <http://electronicintifada.net/content/interview-addameers-mourad-jadallah-hunger-strikes-reignite-prisoner-movement/11013> (accessed June 13, 2012).

has been support for positive investment in Palestine by international churches and other influential bodies to promote peace and economic growth in Palestine.²³⁰

PA Failures in Ensuring Palestinian Human Security

In February 2011, Yezid Sayigh, Professor at King's College London, produced a paper titled, "Policing the People, Building the State: Authoritarian Transformation in the West Bank and Gaza." In the paper, he identified deficiencies in the PA's security sector, indicating that the security sector lacked democratic governance and constitutional order. He cited deficiencies in the rule of law and observance of human rights, a lack of constitutional checks and balances, and weak legislative and judicial oversight. He indicated that individuals who belonged to or were suspected of belonging to Hamas were particularly at risk of abuse by the PA. Further, he described security reforms as being authoritarian in nature that will threaten both long-term Palestinian security and the ability to achieve a recognized Palestinian state. Sayigh argued that Palestinians need to achieve ownership in developing its security sector and unlike Israeli suggestions of separating from Hamas, he suggested integrating forces in the West Bank with the security forces in the Gaza Strip, and engaging all relevant stakeholders in the process.²³¹

The Palestinian Basic Law guarantees the protection of basic human rights and liberties.²³² Nonetheless, allegations of human rights abuses, specifically torture, committed by the PA security services, continued in the West Bank during the reform period and were reported on by the Independent Commission for Human Rights (ICHR). From January through September 2011, the ICHR reported 91 complaints of torture and 479 complaints of arbitrary arrests; however, PA courts have not indicted any security officers on human rights abuse charges.²³³ Further, in 2011 and 2012,

²³⁰ (Goodstein 2012)

²³¹ Sayigh, Yezid. *Policing the People, Building the State: Authoritarian Transformation in the West Bank and Gaza*. Carnegie Paper, Carnegie Paper, Carnegie Middle East Center, Carnegie Endowment for International Peace, 2011.

²³² (The Palestinian Basic Law n.d.)

²³³ (Human Rights Watch 2012)

PA security forces arbitrarily prevented or violently dispersed nonviolent Palestinian protests and detained and at times physically injured journalists covering the events, particularly at events critical of the PA or supportive of Hamas.²³⁴ Human Rights Watch reports that despite court orders to release detained journalists, security officials ignored the orders in several cases in 2011.²³⁵

A 2009/2010 UN Human Development report stressed the need for the PA to reframe “the concept of ‘security’” and advocated participatory state building to promote political and social cohesion and overall human security in the WBGS. The report stated: “The reframing of what ‘security’ can mean is particularly important in Israel and the oPt [Occupied Palestinian Territories] because the Israeli focus on State security over and above the requirements of human security has been a dominant theme since the inception of the State....It is imperative, if development and lasting peace are to be secured, that security be re-envisioned as something that guarantees the collective safety of Palestinians and Israelis rather than just the military security of the State of Israel.”²³⁶

Israeli Role in Palestinian Security

It is important to note that Palestinians’ sense of security is not only impacted by the actions of the PA security forces and Israeli settlers living in the West Bank and Jerusalem, but also by those of the GoI and its security forces. As mentioned previously, Israel has retained overarching control over security within the WBGS as granted through Oslo Accord provisions.

While the PA was given the right to administer security in Area A, in practice, the PA does not maintain full control of security in Area A as Israel occasionally makes incursions into the area,

The Independent Commission for Human Rights was established in 1993 by Presidential decree and is the Palestinian National Human Rights Institution and has full membership in the International Coordinating Committee of National Human Rights Institutions of the United Nations.

²³⁴ (Human Rights Watch 2012)

“PA police crush new Ramallah demo.” Ma’an News Agency. July 2, 2012.

<http://www.maannews.net/eng/ViewDetails.aspx?ID=500441> (accessed September 4, 2012).

²³⁵ (Human Rights Watch 2012)

²³⁶ United Nations Development Programme. *Human Development Report 2009/10: Occupied Palestinian Territory*. United Nations, 2010.

citing security concerns and arguably undermining the effectiveness of the PA.²³⁷ One such incursion took place on February 29, 2012, when about 30 Israeli troops raided two Palestinian television stations in Ramallah. The soldiers confiscated computers, broadcasting equipment and administrative files, and the stations were subsequently unable to broadcast.²³⁸ Further, the Israeli Human Rights organization B'Tselem reported continued physical and verbal attacks towards Palestinians by Israeli soldiers at check points and during interrogations of minors and adults who are suspected of a crime that go beyond limits set by the law. From September 2000 through the end of 2011, B'Tselem reported 473 suspected cases of abuse of Palestinians by security personnel, and reported all of them to either the Military Advocate General's Corps or the Department for the Investigation of Police. The vast majority of the cases were closed without measures being taken. B'Tselem indicates that abuse of Palestinians is widely underreported, "because of lack of trust in the system - a system which tends not to believe them, and which tends to protect rather than prosecute those who injured them."²³⁹ In addition to organizations such as B'Tselem, the PA should also advocate for the well and legal treatment of Palestinians. Thus far, however, the behavior is tolerated and offenders are largely not brought to justice.

Following the Second Intifada and especially during the reform years, the GoI observed security improvements in the West Bank and loosened some of its security barriers. In light of improved security and in an effort to support Palestinian economic growth, following the Second Intifada, Israel took "calculated risks" by removing hundreds of roadblocks and dozens of checkpoints to support Palestinian business activity and economic growth.²⁴⁰ In particular, the GoI eliminated some of its main checkpoints and blockades to access roads in the West Bank, while

²³⁷ (UNSCO 2011)

²³⁸ Al Arabiya with agencies. "Israeli troops raid West Bank TV stations, confiscate computers and equipment." Al Arabiya News. February 29, 2012. <http://english.alarabiya.net/articles/2012/02/29/197697.html> (accessed June 5, 2012).

²³⁹ B'Tselem. "Beating and Abuse of Palestinians by the Israeli Security Forces." *B'Tselem*. January 1, 2011, http://www.btselem.org/beating_and_abuse (accessed January 4, 2012).

²⁴⁰ (State of Israel 2010)

leaving the checkpoint infrastructure in place. The GoI further reduced restrictions on Palestinian movement in 2011.

Despite the reduction in barriers to movement, the GoI maintained an expansive system of restrictions on Palestinian movement in the West Bank during the reform years. Palestinians were unable to use some of the main roads and highways and encountered many checkpoints in the West Bank. In December 2012, there were 97 fixed checkpoints in the West Bank.²⁴¹ Throughout the reform years, the Israeli military erected hundreds of surprise flying checkpoints along Palestinian roads, averaging 350 to 500 of these fluctuating checkpoints per month. Further, the GoI maintained an average of 400 to 500 physical obstructions to block access roads for Palestinians, which included dirt piles, concrete, blocks, iron gates, and trenches. B'Tselem reflects on the security concerns driving Israeli policy on Palestinian movement in the West Bank: "Israel's policy is based on the assumption that every Palestinian is a security threat, thus justifying restrictions on the person's freedom of movement. This racist assumption brings with it the sweeping violation of human rights of an entire population based on national origin. As such, the policy flagrantly breaches international law."²⁴²

While Israel has acknowledged significant improvements in the PA's ability to police the West Bank and lauds the increasing cooperation between Israeli and PSF, it ultimately is not satisfied with the security situation. The April 2010 and April 2011 GoI reports to the AHLC illustrate continued security concerns. The 2010 report stated: "Unfortunately, security threats still require preventative measures. The ease with which terrorist activity can torpedo progress on the ground makes it necessary for Israel to take steps to deter and prevent terrorism."²⁴³ The GoI stated that the Palestinian attacks in response to the September 2010 peace talks and the aforementioned March

²⁴¹ B'Tselem. "Restriction of Movement: Checkpoints, Physical Obstructions, and Forbidden Roads." *B'Tselem*. January 16, 2011. http://www.btselem.org/freedom_of_movement/checkpoints_and_forbidden_roads#main (accessed January 5, 2012).

²⁴² (B'Tselem 2011)

²⁴³ (State of Israel 2010)

2011 killings and Jerusalem bombing “all serve as painful reminders of just how distant real security remains.”²⁴⁴ In July 2011, the GoI maintained approximately 520 closure obstacles in the West Bank, a separation barrier was in the process of being built, and the GoI restricted items the WBGS could import, particularly items that could be considered “dual use”—all justified on grounds of ensuring security for Israelis, through prevention and intercepting attacks aimed at Israel.²⁴⁵

Within the West Bank, Palestinians are subject to Palestinian laws, and also to Israeli Military Law as Israel is the occupying power.²⁴⁶ The GoI tries Palestinians in Israeli courts and sentences Palestinians to terms that must be served in Israeli jails. This practice is contentious amongst Palestinians as the PA does not have the authority to try, convict, and detain Israelis in Palestinian jails.²⁴⁷

The number of Palestinians in Israeli jails has widely fluctuated. The human rights organization, B’Tselem began reporting the number of Palestinians in Israeli jails in 2001 and the lowest number of Palestinians in Israeli jails since reporting began was 719 Palestinians in January 2001, with 16 Palestinians under administrative detention. The highest number of Palestinians in Israeli jails was in October 2006, following the PLC election victory by Hamas members, with 9,494 Palestinians in Israeli jails and 696 Palestinians under administrative detention. B’Tselem reports that

²⁴⁴ (State of Israel 2011)

²⁴⁵ In 2002, Israel began construction of a physical barrier, partly a fence and partly a concrete wall between the West Bank and Israel that is nearly complete. The barrier mostly follows the 1949 Armistice Line though it juts into Palestinian Land, near the borders from the Six-Day War of 1967, but with 85 percent of the route in West Bank territory. The wall is widely contested as it has been deemed illegal by the International Court of Justice, which called on Israel to dismantle portions of the barrier that are inside of West Bank Territory and called on Israeli authorities to compensate affected Palestinians for infringing on their rights. The Israeli Supreme Court has also at times ruled in favor of affected Palestinians, insisting on different routes for the barrier, so as not to be placed on private Palestinian land. The barrier will be referred to as the separation barrier within this thesis, though it is known by many names, including racial segregation wall, apartheid wall, separation fence, security fence, and anti-terrorist fence.

(Human Rights Watch 2012)

²⁴⁶ Davies, Greg, et al. *Children in Military Custody*. British Foreign and Commonwealth Office, 2012. Israeli citizens are subject to Israeli civilian and criminal laws, whether they live in Israel or in West Bank settlements.

²⁴⁷ (Davies, et al. 2012)

The Palestinian Security Forces do have the authority to escort Israelis from the West Bank Area A to Israel and in 2010, the PSF escorted 623 Israelis. (State of Israel 2011)

the number of Palestinians held in Israeli jails at the beginning of the PA's *Ending the Occupation, Establishing the State* plan in August 2009 was 7,285, with 363 Palestinians under administrative detention. At the end of the reform period in September 2011, the number of Palestinians in Israeli jails was 5,269, with 286 Palestinians under administrative detention.²⁴⁸

In 2009, the GoI created the first military juvenile court to try Palestinian children 12 years and older. Historically, the GoI treated Palestinians ages 16 and older as adults, though in September, 2011 the majority age was raised to 18 years old. Human Rights Watch praised these policy changes though it criticized the GoI for continuing to sentence Palestinians based on their age at the time of sentencing instead of their age at which the crime took place. In 2008, 423 children were in Israeli detention. The number of children fell to 135 in December 2011, but it has been increasing and in May 2012, 234 Palestinian children were in Israeli Military custody.²⁴⁹ Children are often detained on suspicion of rock throwing or because they are suspected to have valuable security knowledge. Israeli soldiers have shared their experiences inflicting or witnessing the mistreatment of children including beatings, intimidation, humiliation, and verbal abuse. The arrests of children often occur at night and the children sometimes are questioned without a lawyer or parent present.²⁵⁰

James Kitfield, the national security and foreign affairs correspondent for *National Journal* magazine, suggests that the GoI unintentionally undermines the efforts the PA is making to enhance security.²⁵¹ Kitfield argues that the GoI deals with and treats the symptoms of security breaches but some of its actions and those of its citizens contribute to Palestinian violence. In areas in the West

²⁴⁸ B'Tselem. "Statistics on Palestinians in the custody of the Israeli security forces." *B'Tselem*. http://www.btselem.org/statistics/detainees_and_prisoners (accessed January 4, 2013).

Human Rights Watch reports that some Palestinians that have been held under administrative detention by Israel were those advocating non-violent protest against the route of the separation barrier and Israeli settlements. (Human Rights Watch 2012)

²⁴⁹ (Davies, et al. 2012)

²⁵⁰ (Human Rights Watch 2012)

Sherwood, Harriet. "Former Israeli soldiers disclose routine mistreatment of Palestinian children." *The Guardian*. August 26, 2012. <http://www.guardian.co.uk/world/2012/aug/26/israeli-soldiers-mistreatment-palestinian-children> (accessed December 3, 2012).

²⁵¹ (Kitfield 2009)

Bank under Israeli control, building permits are nearly impossible to obtain and Palestinians sometimes proceed with building homes and other buildings without Israeli permits or have pre-existing structures with no permits, which are often demolished.²⁵² Kitfield challenges the practice of demolishing these structures. Kitfield also criticizes GoI-supported West Bank settlements. The GoI enables and at times encourages settlement growth by providing incentives such as lower taxes that attract individuals and businesses to move to the settlements. Further, the GoI provides and maintains infrastructure such as roads to the settlements, along with the provision of security forces to protect the settlements. Kitfield suggests that the ongoing building of Israeli settlements in the West Bank (now home to more than 350,000 Israelis) not only often results in violence between settlers and Palestinians but also reduces the credibility of the PSF in the eyes of the very people they are charged with serving.²⁵³ Palestinians are frustrated by the settlements, and some view the PSF as pawns of Israel because of their cooperation with IDF actions towards Palestinians.

The cessation of settlement building has been a top priority for the PA and its citizens and the PA has refused to participate in further diplomatic negotiations towards a peace agreement without Israeli assurances of a freeze in settlement building.²⁵⁴

Security Summation

Emerging from the First and Second Intifada and with many of the underlying causes of Palestinians violent actions during the Intifadas remaining, particularly the continued occupation, it should be considered a momentous achievement that order and relative calm, as compared to the Intifadas, prevailed during 2009-2011. Within the West Bank, daily policing improved, crime was reduced, a sense of personal safety improved, security branches began to be reigned in, and while discontent with the occupation continued, it was increasingly channeled through the nonviolent

²⁵² From January 2011 to November 1, 2011, Israeli authorities demolished 467 Palestinian homes and other buildings in the West Bank. These statistics include the West Bank and East Jerusalem. (Human Rights Watch 2012)

²⁵³ (Sherwood 2012)

²⁵⁴ (Kitfield 2009)

resistance movement. The GoI recognized improvements in the security environment and removed many obstacles to movement in the West Bank.²⁵⁵

Credit for creating a more secure environment in the West Bank cannot all be attributed to the PA's efforts since much of the planning, financing, training, and implementation of security reforms in the West Bank were headed or backed by Israel, the United States and the European Union. At the same time, the economy was growing and unemployment was falling, both of which, had an impact on individual Palestinians' sense of security, reducing the likelihood for renewed conflict.

The heavy external influence on the Palestinian security reform agenda is reflected by the resources and efforts placed on the crackdown on Hamas and other opposition groups, and the PA risked resentment or worse by Palestinians disenchanted with PSF cooperation with IDF forces.

Overall, the PSF and IDF efforts have benefitted both Palestinians and Israelis though security gains are fragile and concerns remain. In addition to the lack of respect for Palestinian human rights, key concerns include continued Israeli involvement and presence within the PA's jurisdiction, and settlement growth, which aggravates the parties' affected and Israel-Palestinian relations.

²⁵⁵ (International Crisis Group 2010)

CHATER SIX

Analyzing the Palestinian Economy

“Investments to rebuild and consolidate the institutional capacity of the justice and security sectors have significantly improved public perceptions of safety and the rule of law, contributing to rising business confidence and economic growth.”²⁵⁶

---Excerpt from *Establishing the State, Building Our Future*

In today’s world where the lives of the people are conditioned by socioeconomic issues, the ability to instill peace and prosperity among a people is directly tied to the economic environment a government is able to create for them. As a result, economic progress is an essential element of Palestine’s hopes to build itself up and gain lasting peace and independence. In the Israeli-Palestinian case, the state of the economy affects leaders’ internal credibility and support, and externally validates governmental policies and creates a sense of legitimacy.

At the heart of this is the economy of the West Bank and Gaza Strip (WBGS), and Israeli-Palestinian economic relations following the Israeli occupation of the WBGS in 1967 and similarly, following the start of the Israeli-Palestinian peace process in the early 1990s. The economic trends in the WBGS set the framework for a discussion of Palestinian economic performance during the reform years, 2009-2011. Specifically, the discussion will include monetary and banking arrangements, sources of revenue, fiscal policies and performance, foreign aid and the Non-Governmental Organization sector, the public sector and private sector, doing business in the West Bank, and trade policies.

²⁵⁶ (Palestinian National Authority 2011)

The Palestinian Economy Prior to the Ending the Occupation, Establishing the State Plan

Economy at the Onset of the Oslo Accords

Some of the earliest reliable economic data for the WBGS is provided by the World Bank beginning in 1991, in the midst of the First Intifada. In 1991, the Civil Administration (CA) was made up of 22,000 employees, 95 percent of which were Palestinians. The remaining five percent were Israelis, who notably, filled most policy-making and senior administrative positions. At the local level, there were 29 municipalities and 96 village councils, which shared the responsibility of delivering services with the CA. Additionally, the United Nations Relief and Works Agency provided infrastructure and services for 27 refugee camps in the WBGS, which were made up of refugees and their descendants from the 1948 war.²⁵⁷

In 1991, the population in the WBGS was about 1.7 million, the Gross National Income was about US\$2.9 billion and the Gross National Product (GNP) per capita was US\$1,715.²⁵⁸ The WBGS economy was mostly service-oriented and the private sector dominated the economy, accounting for approximately 85 percent of Gross Domestic Product (GDP). Services accounted for about 50 percent of GDP, agriculture accounted for 30 percent, construction accounted for 12 percent, and industry accounted for 8 percent of GDP. At the time, about one third of the Palestinian labor force commuted to Israel for work, with their earnings accounting for more than a quarter of the Palestinian GNP.²⁵⁹

While the private sector dominated the Palestinian economy in 1991, the WBGS had exceptionally low levels of industrialization. Further, 90 percent of trade was conducted with Israel

²⁵⁷ The World Bank. *Emergency Assistance Program for the Occupied Territories*. The World Bank, 1994.

²⁵⁸ Gross National Income comprises the total value of goods and services produced within a country (i.e. its Gross Domestic Product), together with its income received from other countries (notably interest and dividends), less similar payments made to other countries.

Gross National Product is the total value of all goods and services produced by a country's citizens during a period of time, usually one year.

Investor Dictionary. <http://www.investordictionary.com> (accessed December 5, 2012).

²⁵⁹ (The World Bank 1994)

and the CA had accumulated a large trade deficit with the GoI.²⁶⁰ Public infrastructure and social services were severely inadequate and overstretched, and there was a high degree of environmental degradation of natural resources, especially water.²⁶¹ Palestinian income levels had stagnated for more than a decade, with unemployment and underemployment high and rising. In light of the ongoing conflict, the CA faced the challenge of rebuilding neglected infrastructure that was in ruins due to the First Intifada.²⁶²

Establishing an Economic Framework through the Oslo Accords

The Oslo Peace process initiated fundamental changes to the Palestinian economic framework with mixed results. While Israel had leading roles in administering services in the WBGS and provided financing for its operations since the occupation in 1967, many of these responsibilities and financial obligations began shifting to Palestinians, who lacked expertise and local revenue sources. In 1993, the Declaration of Principles (DOP) resulted in the formation of the Palestinian Authority (PA) that took over some of the governing roles of the CA. In addition to inheriting an economy with low industrialization and poorly developed and diversified trade, the World Bank reported that the PA was “inheriting very weak and fragmented institutions with little capacity for preparing and implementing development programs” and warned that the process of transitioning to an exclusively Palestinian administration would be “slow and complicated.” The World Bank indicated that domestic employment creation and poverty alleviation should be high priorities for the incoming Palestinian government.²⁶³ Further, the World Bank warned that the Palestinian economy

²⁶⁰ (The World Bank 1994)

The World Bank. *The Future of the West Bank and the Gaza Strip*. Development Brief, The World Bank, 1994.

²⁶¹ (The World Bank 1994)

²⁶² (The World Bank 1994)

(The World Bank 1994)

²⁶³ (The World Bank 1994)

was dangerously dependent on the Israeli economy, highly vulnerable to external shocks and faced threats due to an uncertain and fragile political situation.²⁶⁴

From the beginning of the peace process that began in the early 1990s, the international economic community understood that the development of a sustainable Palestinian economy and a rebounding of standard of living for the Palestinian people following the First Intifada was a crucial element for the success of the peace process. Many Palestinians were optimistic that the economic conditions would improve quickly as a result of the Oslo Accords.²⁶⁵ The international community intervened at this critical juncture, providing technical and monetary assistance to help the PA carry out its state and institution building initiatives as it developed mechanisms to generate internal revenue sources, aiming to create conditions conducive to economic growth in the WBGS. When the PA worked to establish institutions and faced challenges such as rising unemployment, foreign aid helped the PA survive, working to offset other declines in the economy. Between 1993 and mid-1999, aid to the PA exceeded US\$4.6 billion.²⁶⁶

The PA, supported by the international community, including institutions such as the World Bank, devised a strategy for the development of the private sector economy. This strategy consisted of a variety of efforts to strengthen legal framework for entrepreneurial activities, to stimulate private business activities, and to reconstruct the physical environment that had suffered damage throughout years of neglect and destruction. Specific projects were created to expand and improve public services for water, sanitation and electricity, and to increase private sector participation in the efforts. For instance, the Gaza water and sanitation project and the Electricity Distribution and Management project involved the PA in a regulatory role while the private sector engaged in providing services.

²⁶⁴ (The World Bank 1994)

²⁶⁵ Shaban, Radwan A. "Worsening Economic Outcomes Since 1994 Despite Elements of Improvement." In *Development under Adversity – The Palestinian Economy in Transition*, edited by Radwan A. Shaban and Ishac Diwan, 17-32. Washington, D.C.: Palestine Economic Policy Research Institute (MAS) and the World Bank, 1990.

²⁶⁶ The Secretariat of the Ad Hoc Liaison Committee. *Aid Effectiveness in the West Bank and Gaza (Draft Report)*. Aid Effectiveness Study, The United Nations Information System on the Question of Palestine, 1999.

Further, the strategy involved encouraging the strengthening of the financial sector including small business and private lending, and spurring the development of industrial parks with the aim of fostering business and employment to modernize the private sector.²⁶⁷

In 1993 the PLO established the Palestinian Economic Council for Development and Reconstruction (PECDAR). PECDAR was responsible for the development of economic policy, project management, coordination of aid distribution, and facilitating cooperation between Palestinian nongovernmental organizations (PNGOs) and other international organizations. In this function PECDAR tendered public projects primarily focused on infrastructure rehabilitation. PEDCAR facilitated an open bidding process on projects and local contractors typically implemented projects while international firms and consultants provided technical assistance.²⁶⁸ The development of PEDCAR was especially critical, given the limited scope and capacity of public institutions at the time. PEDCAR would work in tandem with municipal institutions, capable of implementing investment programs. The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), United Nations Development Programme, and PNGOs also played key roles in providing jobs and services within the WBGS.²⁶⁹

The 1994 Paris Protocol on Economic Relations (PER) established the framework for Israeli-Palestinian interim economic relations. The PA inherited some powers over the economy including: the authority to determine and set taxes, set industrial development policies, set industrial policy, employ individuals in the public sector, and administer a monetary authority to act as the PA's economic and financial advisor and to regulate and supervise banks in designated areas.²⁷⁰

²⁶⁷ The World Bank. *West Bank And Gaza Update: The Private Sector – The Key To Prosperity*. A Quarterly Publication of the West Bank and Gaza Resident Mission, The World Bank Group, 1997.

²⁶⁸ PEDCAR. *Palestinian Economic Council for Development and Reconstruction (PEDCAR)*. 2013.<http://www.pecdar.ps/> (accessed January 5, 2013).

²⁶⁹ (The World Bank 1994)

²⁷⁰ B'Tselem. "Restriction of Movement: The Paris Protocol." *B'Tselem*. January 1, 2011. www.btselem.org/freedom_of_movement/paris_protocol (accessed December 3, 2012).

The agreement introduced economic relations largely between Israel, the Gaza Strip, and the West Bank city of Jericho, and the area expanded in the West Bank in subsequent Oslo Agreements. The PER gave the PA control over imports and customs policy and procedures for goods on lists A1 and A2, which included a limited number of mostly Arab countries. The quantities of goods imported was to be determined between PA and Israel and a sub-committee of experts. With regards to goods not on list A1 or A2, Article III: 10 of the Gaza-Jericho Agreement, Annex IV of the Economic Protocol stipulated, “both sides will maintain the same import policy...and regulations including classification, valuation and other customs procedures...and the same policies of import licensing and of standards for imported goods, all as applied by Israel with respect to its importation. Israel may from time to time introduce changes in any of the above, provided that changes in standard requirements will not constitute a non-tariff-barrier.”²⁷¹

During the Oslo Accords negotiations, Palestinian negotiators wanted a free trade agreement with Israel, which would have required the sides to agree to customs borders. Israeli negotiators wanted to extend the de facto customs union and ultimately, both sides agreed to a customs union, allowing the Palestinian economy to remain integrated in and dependent on the Israeli economy.²⁷² While the PER did not endorse free trade, it called for the elimination of Israeli and Palestinian trade barriers on agricultural products and industrial goods.²⁷³ Other features of the PER included the free movement of goods manufactured in the Gaza Strip and the West Bank City of Jericho, and the ability of tourists to move freely between Israel and the WBGS. Further, the PER called for mutual

²⁷¹ (Gaza-Jericho Agreement Annex IV 1994)

²⁷² The formalization of the customs union was consistent with advancing UN Resolution 181, which called for two independent states linked together in an economic union. Passed on November 29, 1947, UN General Assembly Resolution 181 called for an end to the British Mandate by August 1, 1948 and called for the establishment of an Arab and Jewish state side by side by October 1, 1948. The UN was to oversee the transitional period until both states were created, but this did not happen and the partition plan was never implemented due to intense opposition to the plan. The British announced the British Mandate would end on May 14, 1948 and began deploying prior to that date.

“United Nations General Assembly Resolution 181: November 29, 1947.” *The Avalon Project at Yale Law School*. 1996. <http://www.yale.edu/lawweb/avalon/un/res181.htm> (accessed December 3, 2012).

²⁷³ In order to make changes to the initial import agreements, Israel would need to provide approval.

mobility of labor and for the PA to establish a social security system. Israel retained some powers over the Palestinian economy. Chiefly among them was control over external borders.²⁷⁴

A model of free trade would have reduced Palestinian dependence on the Israeli economy and enabled their producers and consumers to tap the worldwide market without facing any tax or non-trade barriers.²⁷⁵ B'Tselem, The Israeli Information Center for Human Rights in the Occupied Territories, indicates Palestinians were compelled to accept the customs union model with Israel stating: "Israel made acceptance [of the model set forth in the Protocol] a condition at a time that the Palestinian Authority was unable to provide employment within the autonomous areas to the tens of thousands of Palestinians working in Israel."²⁷⁶

Later on September 28, 1995, the PA and GoI agreed to the Interim Agreement, which reaffirmed their commitment to the PER by incorporating it into the Interim Agreement and expanding up on it. This supplement to the PER included: an expansion of the area in the West Bank that was regulated by the PER, revisions to items and their quantities on the acceptable Palestinian import list, a commitment by Israel to transfer funds to the PA in order to cover recurrent costs associated with the additional responsibility the PA was assuming, and changes to the clearance revenue transfer system, including a new three percent deduction by Israel from each transfer to the Palestinian side of import taxes and other indirect taxes, to cover Israel's administrative costs in handling the taxes.²⁷⁷

Soon after the DOP, Israel showed reluctance to implement aspects of the Oslo agreement. For example, Israel delayed the removal of Israeli forces from parts of Area C and delayed the

²⁷⁴(B'Tselem 2011)

(Gaza-Jericho Agreement Annex IV 1994)

²⁷⁵ With a free trade agreement, there still could be phytosanitary and security restrictions re the import or export of weaponry.

²⁷⁶ (B'Tselem 2011)

(Gaza-Jericho Agreement Annex IV 1994)

²⁷⁷ (Israeli-Palestinian Interim Agreement 1995)

transfer of clearance revenues to the PA.²⁷⁸ Further, there was strong interference by Israel in the movement of people, vehicles, and within the West Bank, and between the West Bank and Gaza Strip and between Israel and the WBGS, despite stipulations in the Oslo Accords that security obligations were not to interfere with the “normal and smooth movement of people, vehicles, and goods within the West Bank, and between the West Bank and the Gaza Strip.”²⁷⁹ These restrictions to movement significantly reduced economic performance and discouraged investment in Palestine.²⁸⁰ In addition to barriers to movement negatively impacting the Palestinian economy, the PA failed at varying degrees in its new role, particularly with regards to implementing the rule of law, and providing security for Palestinians and Israelis. Further, many of the highest PA officials engaged in corrupt activities, and the economy suffered as a result. A lack of effective policies for the protection of creditors, the regulation of the capital market, the enforceability of land titles, and the capabilities for urban planning and development were very apparent. The World Bank attested that the PA was lacking skills and training for the adequate management, planning and auditing of public finances.²⁸¹

Within the West Bank, Palestinians have had increasingly less access to land since the Oslo Accords, namely because the Oslo Accords established that the majority of the West Bank (59 percent) was designated as Area C. Palestinians living in Area C prior to the Oslo Accords were able to freely live, travel within and engage in commerce in Area C and much of the land was used for agricultural purposes. Upon the inception of the Oslo Accords, Israel created obstacles for Palestinians to live and work in Area C, such as the requirement to obtain permits to live and work

²⁷⁸ The World Bank. *West Bank and Gaza Update: Long-Term Policy Options for the Palestinian Economy*. A Quarterly Publication of the West Bank and Gaza Office, The World Bank, 2002.

²⁷⁹ (Israeli-Palestinian Interim Agreement 1995)

²⁸⁰ B'Tselem. “Restriction of Movement: The Palestinian economy during the period of the Oslo Accords: 1994-2000.” *B'Tselem*. January 1, 2011. http://www.btselem.org/freedom_of_movement/economy_1994_2000 (accessed June 5, 2011).

²⁸¹ The World Bank. *West Bank And Gaza Update: Building Blocks for the Future*. A Quarterly Publication of the West Bank and Gaza Office, The World Bank, 2000.

and to travel into this area. Difficult to obtain permits have resulted in fewer Palestinians living and working in Area C, resulting in lower economic activity in the area.²⁸²

The Israeli population in the West Bank and Jerusalem was 169,200 in 1987, and rapidly grew to 332,200 by 2004. From 1987 to 2005, the amount of land the settlements covered increased by 400 percent.²⁸³ The increase in Israeli citizens living in the West Bank has resulted in the building of additional roads by Israel within the West Bank to link the settlements to Israel. The roads further reduced and divided Palestinian land. The Israeli settlements have contributed to dwindling natural resources for Palestinians, namely water, which also has a negative impact on Palestinian economic potential. Some of the lost Palestinian jobs in the West Bank were replaced by jobs in Israeli settlements in the West Bank, though the nature of the work changed mostly from agriculture to construction.

Since the GoI assumed responsibility for security and administration in Area C in the mid-1990s, its policies have made it a difficult place for Palestinians to live. Much of the land was historically used for agriculture or herding animals by tens of thousands of Bedouins.²⁸⁴ In 2012, approximately 150,000, or six percent of West Bank Palestinians lived in Area C.²⁸⁵ Israel has made approximately 38 percent of Area C off limits to Palestinians, designating 21 percent of the West Bank for military bases and closed military areas and 8.7 percent as Israeli-declared nature reserves. Further, Palestinian land west of the separation barrier along with Israeli settlements, outposts, and related infrastructure such as Israeli roads are off limits to Palestinians without a permit by the IDF. Further, some of the land Palestinians can access in Area C is dissected by Israeli roads or is impeded

²⁸² (Palestinian National Authority 2008)

²⁸³ UN OCHA. *The humanitarian impact on Palestinians of Israeli Settlements and other infrastructure in the West Bank*. United Nations—Office for the Coordination of Human Affairs (OCHA), 2007.

²⁸⁴ UN OCHA. *Displacement and Insecurity in Area C of the West Bank*. United Nations Office for the Coordination of Humanitarian Affairs, 2011.

²⁸⁵ UN OCHA. *Area C of the West Bank: Key Humanitarian Concerns*. United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 2013.

by road blocks and check points.²⁸⁶ The land available to Palestinians is increasingly shrinking as Israeli settlements are quickly expanding. Between 1999 and 2009, the population in Israel grew by 19 percent whereas the settler population, excluding East Jerusalem, grew by 56 percent.²⁸⁷ Palestinians who live and work in Area C face insecurity and instability. Land registered to Palestinians in Area C has been confiscated by the GoI for settlement building or “public needs,” though the Supreme Court of Israel deemed the practice illegal in 1979.²⁸⁸ Construction for Palestinians is prohibited in 70 percent of Area C and in the 30 percent where it is possible, proving ownership of land or getting permits to build infrastructure is nearly impossible. Many Palestinians build without permits, though the GoI demolishes hundreds of these structures annually. Further, restrictive zoning policies limit the use of land and construction. These policies and the resulting reduced access to land and resources, coupled with insecurity such as limited protection from settlers from the Israeli justice system, have caused Palestinians, namely farmers and herders to move from one part of Area C to another part of Area C or from Area C to Areas A or B.²⁸⁹

When the PLO and the GoI failed to follow through with some of their commitments made during the Oslo Accords and to negotiate a peace settlement, their failures did not go unnoticed. The PLO and the PA lost legitimacy amongst Palestinians and Palestinians grew frustrated with Israeli policies, such as its growing settlements and restrictions on movement, and the Palestinian economy suffered. The average Palestinian had many grievances. These frustrations, along with an interim period much longer than expected without reaching objectives, culminated in the Second Intifada in 2000, which had a strong negative impact on the Palestinian economy. The UN OCHA reported that “In practice, Palestinian construction is normally permitted only within the boundaries of a plan

²⁸⁶ (UN OCHA 2007)

²⁸⁷ (UN OCHA 2011)

²⁸⁸ The World Bank. *The Economic Effects of Restricted Access to Land in the West Bank*. The World Bank, 2008.

²⁸⁹ (UN OCHA 2011)

approved by the Israeli Civil Administration (ICA), which covers less than one percent of Area C, much of which is already built-up.”²⁹⁰

Economic Performance

Trade suffered during the Oslo years: during 1992-1995, imports to the WBGS fell from 61 to 48 percent of GDP and exports from the WBGS fell by 14 percent of GDP.²⁹¹ Once coupled with a delay in transferring revenue clearances to the PA, a lack of implementation of the Oslo Accords, poor governance by the PA, and excessive Israeli interference, these factors had a significantly negative impact on the Palestinian economy. Subsequently, the WBGS experienced a significant decline in real GDP per capita and real GNP per capita of 10-15% and 20-25% respectively between 1994 and 1996.²⁹² Particularly hard hit was the Palestinian agricultural industry as the closures disabled access to the much needed Israeli market for these perishable goods.²⁹³ As a result, some Palestinian industries were forced to shut down and farmers switched from the production of high value, but perishable, products to the production of low-value crops.²⁹⁴ In 1997, the private business sector of the WBGS remained the main economic driver, with the private business sector accounting for approximately 80% of the GDP.²⁹⁵ During 1994-2010, economic output was erratic and output per capita contracted at an average annual rate -0.6 percent.²⁹⁶ The Second Intifada and other bouts of violence played a role in the erratic output per capita. Despite the immediate attempt of the international community as well as the PA to reform and revitalize the economy, at the dawn of the

²⁹⁰ Shikaki, Khalil. “The Future of Palestine.” *Foreign Affairs*. 83, no 6 (2004).

(Palestine Economic Policy Research Institute (MAS) and the World Bank 1999, 50-61)

²⁹¹ Diwan, Ishac, and Radwan A. Shaban. “Introduction and Background” In *Development under Adversity – The Palestinian Economy in Transition*, 1-3. Palestine Economic Policy Research Institute (MAS) and the World Bank, 1999.

²⁹² (The World Bank 1997)

²⁹³ (B’Tselem 2011)

²⁹⁴ Stiglitz, Joseph. “Foreword” In *Development under Adversity – The Palestinian Economy in Transition*, edited by Ishac Diwan and Radwan A. Shaban, xi-xii. Palestine Economic Policy Research Institute (MAS) and the World Bank, 1999.

²⁹⁵ (The World Bank 1997)

²⁹⁶ IMF. *Recent Experience and Prospects of the Economy of the West Bank and Gaza*. Staff report prepared for the meeting of the Ad Hoc Liaison Committee, New York: International Monetary Fund (IMF), 2011.

Second Intifada in 2000 – almost seven years after the Oslo Accords – there were signs that Palestinian society was still lacking crucial policies and institutions for the promotion of a sustainable economy.²⁹⁷

When the Second Intifada erupted, the Palestinian economy was again negatively affected. The adverse effect of the Second Intifada then was compounded by increases of Israeli restrictions on Palestinian movement for security purposes. Table 13 includes economic indicators for the Palestinian economy at the onset and during the Second Intifada.

Table 13: The Palestinian Economy During the Second Intifada

| Year | GDI in WB US\$ a/ | GDI in GS US\$ a/ | GDI in WBGS US\$ a/ | Poverty Rate % in WB b/ | Poverty Rate % in GS b/ | Poverty Rate % WBGS b/ | Adjusted unemployment rate % in WB c/ | Adjusted unemployment rate % in GS c/ | Adjusted unemployment rate % in WBGS c/ |
|------|----------------------|----------------------|------------------------|-------------------------------|-------------------------------|------------------------------|---|---|---|
| 1999 | 2,113.2 | 1555.1 | 1896.1 | 13 | 32 | 20 | 5.9 | 16.9 | 11.8 |
| 2000 | 2035.2 | 1532.1 | 1839.1 | 18 | 42 | 27 | 12.1 | 18.7 | 14.1 |
| 2001 | 1662.1 | 1282.1 | 1513.1 | 27 | 54 | 37 | 22 | 34.2 | 25.5 |
| 2002 | 1452.1 | 1130.1 | 1326.1 | 41 | 68 | 51 | 28.2 | 38 | 31.2 |
| 2003 | 1621.1 | 1227.1 | 1467.1 | 37 | 64 | 47 | 23.8 | 29.2 | 25.6 |

Source: B'Tselem. "Restrictions on movement: Statistics on unemployment and poverty." *B'Tselem*. January 1, 2011. http://www.btselem.org/freedom_of_movement/unemployment_statistics (accessed January 4, 2012).

a/ Gross Domestic Income (GDI) measures the overall market value of all t goods and services produced within a given economic area during a particular period of time. This figure, which is not substantially different from the Gross Domestic Product (GDP), is the indicator used in World Bank reports on which this table is based.

b/ The poverty rate is calculated based on daily per capita income below \$2.1.

c/ Adjusted employment also includes "discouraged workers," who are not employed and have stopped seeking jobs due to pessimism regarding the prospect of actually finding work and/or are receiving subsidies or remittance income that approximate or exceed the wages they could earn in the labor market.

Statistics for the West Bank include East Jerusalem.

Table 13 shows that the Palestinian Gross Domestic Income (GDI) per capita dropped from US\$1,896 in 1999 to US\$1,326 in 2002 while the poverty rate and unemployment rates increased. These changes took place in light of the violence during the Intifada, Israeli security measures, including restrictions on movement that prevented Palestinians from working in Israel or in parts of

²⁹⁷ (The World Bank 2000)

the WBGS, and the failure of the PA and its international financiers to create the institutional and policy environment needed to stimulate adequate job creation.²⁹⁸

Employment

Employment of Palestinians in the 1990s was extremely vulnerable. While the First Intifada was officially over with the signing of the Oslo Accords in 1993, lower levels of violence continued periodically. Higher wages served as a strong motivation for Palestinians to travel to Israel or to the Israeli settlements in the West Bank for employment opportunities, even when it conflicted with their personal views on the Israeli occupation.²⁹⁹ Israel implemented new security measures through internal and external border closures in the WBGS, at times completely eliminating the employment of Palestinians in Israel.³⁰⁰ With many Palestinians reliant on agricultural and construction jobs in Israel, any changes in freedom of movement had an immediate impact on the Palestinian economy. Identification cards were necessary for all Palestinians but even with security cards Palestinians were often denied access to cities.

The employment of Palestinian workers in Israel declined to about 28,000 in 1996, down from 116,000 in 1992.³⁰¹ By 1999 the employment of Palestinians in Israel had recovered slightly, to 33,000 – despite Israel’s commitment as part of the Paris Protocol to keep its labor market open for up to 100,000 Palestinians. Most of the jobs previously held by Palestinians were lost as the Israeli labor market started to substitute Palestinian workers with immigrants from Eastern Europe and Southern Asia.³⁰² In 2012, 41,000 Palestinian workers were employed with permits in Israel and in

²⁹⁸ (B’Tselem 2011)

²⁹⁹ The World Bank. *The Underpinnings of the Future Palestinian State: Sustainable Growth and Institutions*. Economic Monitoring Report to the Ad Hoc Liaison Committee, The World Bank, 2010.

³⁰⁰ (The World Bank 1997)

Seitz, Charmaine. “The Tar Baby of Foreign Aid: How Palestinians are Trying to Keep Their Hands Clean.” *Middle East Report*. 234 (2005): 28-33.

³⁰¹ (Stiglitz 1999)

³⁰² (Diwan and Shaban 1999)

the settlements, while another 22,000 Palestinians worked without permits, with more than half of the jobs in the construction sector.³⁰³

Table 14 shows the percentage of West Bank Palestinians working in Israel and the settlements, in the Gaza Strip and in the West Bank from 1995 to 2010. With 22 percent of employed Palestinians from the WBGS working in Israel and the settlements in 1999, nearly a quarter of the workforce was earning substantial wages. Following the onset of the Second Intifada in 2000, the percentage of Palestinians working in Israel and the settlements plummeted to 8 percent by 2004, recovering slightly to 10 percent in 2011.

Table 14: Geographical Percentage Distribution of Employed Persons from the West Bank and Gaza Strip, 1995-2010

| Year | Israel and Settlements | Gaza Strip | West Bank | Total |
|------|------------------------|------------|-----------|-------|
| 1995 | 16.2 | 23.2 | 60.6 | 100 |
| 1996 | 14.1 | 26.6 | 59.3 | 100 |
| 1997 | 17.1 | 26.1 | 56.8 | 100 |
| 1998 | 21.7 | 24.5 | 53.8 | 100 |
| 1999 | 22.9 | 24.2 | 52.9 | 100 |
| 2000 | 18.8 | 24.8 | 56.4 | 100 |
| 2001 | 12.5 | 25.4 | 62.1 | 100 |
| 2002 | 9.3 | 27.5 | 63.2 | 100 |
| 2003 | 8.7 | 30.0 | 61.3 | 100 |
| 2004 | 8.0 | 27.8 | 64.2 | 100 |
| 2005 | 9.3 | 28.9 | 61.8 | 100 |
| 2006 | 8.6 | 26.5 | 64.9 | 100 |
| 2007 | 8.9 | 29.1 | 62.0 | 100 |
| 2008 | 10.1 | 26.7 | 63.2 | 100 |
| 2009 | 10.2 | 26.4 | 63.4 | 100 |
| 2010 | 10.5 | 26.0 | 63.5 | 100 |
| 2011 | 10.0 | 29.1 | 60.9 | 100 |

Source: Palestinian Central Bureau of Statistics, *Labour Force Survey*. Annual Report: 2010, Palestinian Central Bureau of Statistics, 2011.³⁰⁴

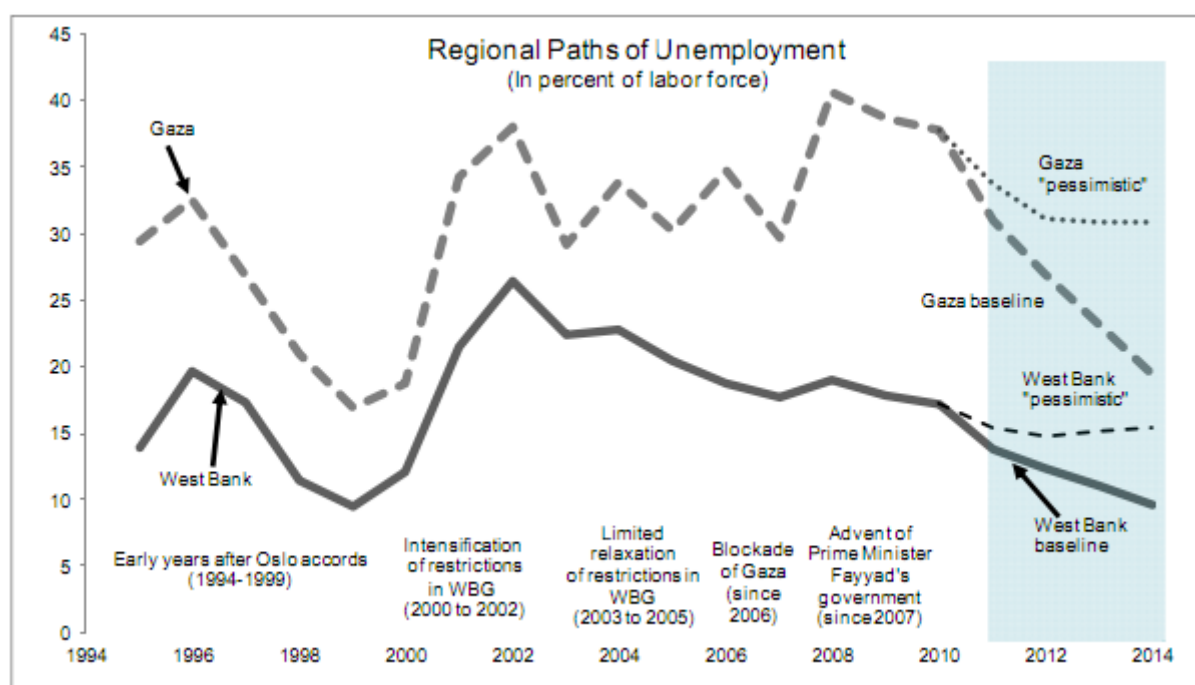
Palestinian Central Bureau of Statistics, *Labour Force Survey*. Annual Report: 2011, Palestinian Central Bureau of Statistics, 2012

³⁰³ Toameh, Khaled Abu. "Number of Palestinian Workers in Israel rises." *The Jerusalem Post*. August 15, 2012. <http://www.jpost.com/MiddleEast/Article.aspx?id=281320> (accessed December 20, 2012).

³⁰⁴ The data provided by the Palestinian Central Bureau of Statistics is slightly different from the data presented by the IMF and World Bank. The PCBS uses International Labour Organization (ILO) standards. According to ILO standards, unemployed persons are those individuals aged 15 years and over who did not work at all during the reference period, who were not absent from a job, were available for work and actively seeking a job during the reference period by one of the following methods news paper, registered at employment office, ask friends or relatives or any other method.

While Palestinian employment in Israel was fluctuating during the Oslo years, the Palestinian unemployment rate improved overall, with the adjusted unemployment rate reaching a 5.9 percent low in the West Bank in 1999. At the onset of the Second Intifada, Israel restricted Palestinians' travel to Israel, and Palestinian unemployment was directly affected. With the onset of the Second Intifada, the West Bank Palestinian unemployment rate steadily increased during 1999 to 2002, peaking at over 25 percent in 2002, as shown in Figure 3.

Figure 3: Unemployment Rate Trends/ Predictions in the West Bank and Gaza Strip, 1994-2014



Sources: Palestinian Central Bureau of Statistics; and IMF staff estimates and projections. (IMF 2011)

Restricted employment of West Bank Palestinians in Israel and rising unemployment beginning in 1999 reflect the negative repercussions of conflict on the Palestinian economy.

Ending the Occupation, Establishing the State Economic Objectives

Since assuming the office of Prime Minister in 2007, Salam Fayyad immediately began working with international financial institutions to identify priority reforms that would stimulate the Palestinian economy and pinpoint ways to improve fiscal management. In December 2007, the PA

presented the one of many reform plans, the 2008-2010 *Palestinian Reform and Development Plan*, at a donor's conference in Paris. The plan was well-received and donors financed the PA's initiatives, in 2008 and subsequent years.

In 2009, the PA presented a new state and institution building plan, which overlapped with and built upon its Reform and Development Plan initiatives. The title, *Ending the Occupation, Establishing the State*, aptly described the PA's ultimate goal through implementation of the plan. The PA identified a strong, sustainable, active and efficient economy as the foundation of a self-sufficient Palestinian state, and the PA presented goals within its capacity to create the conditions to build a stronger economy.

The PA claimed that it had increased public sector employment to provide employment opportunities and reduce poverty in the past in an effort to "deal with economic stagnation and contraction."³⁰⁵ The plan aimed to restrict the growth of the public sector wage bill, make the PA more accountable for the resources it spent, and create job opportunities in the private sector. Developing domestic capacities and resources and creating an attractive investment environment would reduce the PA's dependency on foreign aid too, and lay the foundation for sustainable growth.

The PA expressed its commitment to a free market economy, and promised to actively prevent monopolies and other forms of economic opportunism and exploitation within the Palestinian economy. The plan called for continued work on industrial infrastructure projects, particularly for information technology, precious metals, and renewable energy industries.³⁰⁶

Economic Performance during the Reform Years

Monetary and Banking Arrangements in the West Bank

The primary currency in Palestine is the Israeli New Sheqel (NIS). Article 4 of the 1994 PER stipulated that the PA could adopt additional currencies and in practice, Palestinians also regularly

³⁰⁵ (Palestinian National Authority 2009)

³⁰⁶ Bahour, Sam. "Economic Prison Zones." *Middle East Research and Information Project*. November 19, 2010. <http://www.merip.org/mero/mero111910> (accessed November 21, 2012).

use US dollars, as this is how most external support is received. Palestinians also use the Jordanian Dinar, especially in the West Bank, and the Egyptian pound is frequently used in the Gaza Strip.

Throughout the reform years, the PA enacted changes across various ministries to improve its fiscal management system and reporting to the public. Some of the initial reforms in 2009 included the establishment of a new commercial accounting section in the Palestinian Ministry of Finance and regularizing the bank reconciliation process in the course of preparing financial statements.³⁰⁷

The Palestine Central Bureau of Statistics, the Ministry of Finance (MoF) and the Palestine Monetary Authority (PMA) provided quality data in a timelier manner during the reform years. Specifically, the MoF published data on expenditures, revenue, external aid, and public debt, on its website on a monthly basis, providing the utmost transparency and making the evaluation of governmental actions in these areas easily accessible to the public.³⁰⁸

With IMF technical assistance, the PA introduced wide-ranging reforms to its public financial management within the PMA and MOF system during 2009-2011, listed in Table 15.

Table 15: PA Internal Reforms Within the PMA and MoF, 2009-2011

| Palestine Monetary Authority | Ministry of Finance |
|---|---|
| Adopted regulations governing mergers and acquisitions | Introduced a Financial Management Information System to link the Ministry of Finance to line ministries |
| Established a unit to implement Fair Lending Regulations | Established procedures to enable regular external audits of its annual financial statements and initiated audits |
| Established a bounced-checks tracking system | Established a macro-fiscal unit |
| Created a bank deposit insurance scheme with World Bank assistance | Expanded property tax collection to nearly half of 107 municipalities in the West Bank |
| Installed an electronic payment system in 2010, including a Real Time Gross Settlement system (RTGS) and a Clearance House that raised bank payments' efficiency and reduced liquidity risk | Integrated the Commitment Control System into the Financial Management Information System, preventing excessive expenditure commitments and arrears |
| Created a new central bank law to guarantee the independence of the PMA | Modified the Commitment Control System to ensure that purchase orders are determined by monthly cash plans that take into account delays in donor aid |
| Established a credit scoring system, contributing to the rise in bank credit to the private sector | |
| Integrated a credit scoring system into credit registry | |

Source: (IMF 2011)

³⁰⁷ (The World Bank 2011)

³⁰⁸ (IMF 2011)

The International Monetary Fund (IMF) provided an assessment of PMA changes during the reform years. A September 2011 IMF report indicated all the banks in the WBGS were rigorously regulated and supervised by the PMA. Further, the IMF assessed that the PMA used a variety of sound instruments to do so such as, “reserves ratios, capital requirements, liquidity ratios, limits on credit concentration, outside placements, and currency exposure.”³⁰⁹

Sources of Revenue

The PA’s revenue base includes tax and nontax revenues; border clearance revenues and tax refunds. The PLO and GoI agreed to a situation in which the GoI would collect clearance revenues and income taxes by Palestinians employed in Israel and transfer the funds to the PA monthly. Specifically, the Gaza-Jericho Agreement stipulated that Israel would transfer to the PA 75 percent of the revenues from income tax collected from Palestinians employed in Israel and 100 percent of income taxes collected from Palestinians in the Gaza Strip, Jericho Area, and West Bank settlements.³¹⁰

The Gaza-Jericho Agreement provided guidelines on PA taxation policies, stipulating that the Palestinian Tax Administration would conduct its own taxation policies and the PA would implement a Value Added Tax (VAT) at around 15 to 16 percent.³¹¹

Table 16 details Palestinian fiscal indicators from 2004-2011, and includes a breakdown in the amount of revenues from taxes.

³⁰⁹ (IMF 2011)

³¹⁰ (Gaza-Jericho Agreement Annex IV 1994)

³¹¹ (Gaza-Jericho Agreement Annex IV 1994)

Table 16: Palestinian Fiscal Indicators, 2004-2011
(In millions of US dollars, unless otherwise indicated)

| | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | Year 2011 | Bud- get 2011 |
|---|-------|-------|--------|--------|--------|--------|--------|--------------|---------------------|
| Total net revenues | 954 | 1,232 | 1,449 | 1,269 | 1,568 | 1,598 | 1,927 | 2,046 | 2,149 |
| Gross domestic revenues | 337 | 476 | 396 | 400 | 562 | 585 | 745 | 738 | 812 |
| Tax revenues | 191 | 231 | 239 | 201 | 273 | 301 | 474 | 438 | 512 |
| Nontax revenues | 146 | 245 | 157 | 199 | 289 | 284 | 270 | 256 | 300 |
| Gross clearance revenues a/ | 617 | 757 | 770 | 894 | 1,122 | 1,103 | 1,259 | 1,424 | 1,442 |
| Tax refunds | -- | -- | 17 | 25 | 116 | 91 | 76 | 116 | 105 |
| Total recurrent expenditures b/ | 1,528 | 1,994 | 2,277 | 2,507 | 2,866 | 3,190 | 3,076 | 3,324 | 3,232 |
| Wage expenditures | 870 | 1,001 | 1,193 | 1,280 | 1,453 | 1,467 | 1,613 | 1,783 | 1,709 |
| Non-wage expenditures | 465 | 605 | 747 | 693 | 985 | 1,349 | 1,227 | 1,401 | 1,363 |
| Net lending | 157 | 344 | 337 | 534 | 447 | 374 | 236 | 140 | 160 |
| Total recurrent expenditures c/ | 870 | 1,001 | 1,053 | 1,996 | 2,826 | 2,565 | 2,956 | 2,961 | 3,232 |
| Wage expenditures | -- | -- | -- | -- | -- | 1,423 | 1564 | 1678 | 1709 |
| Non-wage expenditures | 465 | 605 | 393 | 630 | 1,055 | 1,142 | 1,156 | 1,143 | 1,363 |
| Net lending | -- | -- | -- | -- | -- | 355 | 263 | 140 | 160 |
| Recurrent balance b/ | -574 | -762 | -1,128 | -1,238 | -1,317 | -1,592 | -1,149 | -1,279 | -1,084 |
| Recurrent balance c/ | -477 | -625 | -714 | -840 | -1,690 | -1,371 | -1,083 | -783 | -967 |
| Development projects c/ | 353 | 349 | -- | -- | -- | -- | 299 | 370 | 500 |
| Development projects b/ | -- | -- | 281 | 131 | 215 | 400 | 275 | 295 | 500 |
| Overall balance c/ (Including development expenditures) | -124 | -276 | -255 | -971 | -1,905 | -1,771 | -1,358 | -1,078 | -1,467 |
| Financing | -124 | -276 | -255 | 971 | 1,905 | 1,771 | 1,358 | 1,078 | 1,467 |
| External support for recurrent & development expenditures | -- | 348.8 | 741 | 1,140 | 1,979 | 1,755 | 1,277 | 940 | 1,467 |
| External support for recurrent expenditures disbursed or indicated | 124 | 348.8 | 741 | 1,010 | 1,764 | 1,355 | 1,146 | 771 | 967 |
| External support for development expenditures | -- | -- | 281 | 131 | 215 | 400 | 130 | 169 | 500 |
| Domestic financing | 134 | 304 | -172 | -132 | -29 | 176 | 84 | 137 | --- |
| Residual | -9 | -202 | -1 | -115 | -40 | -156 | -3 | 1 | --- |

Source: IMF. "Resident Representative Office -- News Archive: West Bank and Gaza (Various reports from 2008-2010.)." IMF. <http://www.imf.org/external/country/rp/pagesexternalmore.aspx?isoCode=wb&pageLang=ENG&isRegion=0> (accessed 4 January, 2013).

IMF. *Macroeconomic and Fiscal Developments in the West Bank and Gaza*. Ad Hoc Liaison Committee Meeting. New York: International Monetary Fund (IMF), 2007. (IMF 2012)

a/ Gross clearance revenues are taxes collected by Israel at the border and sent to the PA monthly.

b/ Commitment basis

c/ Cash basis

d/ Percent of GDP US \$billion

Based on data in Table 16, taxes the PA collected constituted 19 percent of PA revenues in 2009, 25 percent in 2010 and 21 percent in 2011. The PA had budgeted for 24 percent of its revenues to come from local taxes in 2011, but lower than projected economic growth and tax compliance

contributed to lower than expected tax revenues in 2011.³¹² Income taxes, consumption taxes, and corporate taxes are the primary taxes the PA administers. Income tax revenues made up about 1.5 percent as a share of Palestinian GDP in 2011, which is the lowest rate in the region. The IMF indicated that tax revenues constitute three to four percent of revenues as a share of GDP in Algeria, Jordan, and Lebanon in 2011.³¹³ The corporate tax rate in the WBGS was 16.8 in 2011. By comparison, the Israeli corporate tax rate was 30.5 and the U.S. corporate tax rate was 46.7 percent in 2011, the U.S. having the highest rate in the industrialized world.³¹⁴ The corporate tax base is small in Palestine as large private enterprises (defined as having 20 or more employees) make up only one percent of the private sector, the rest of which, are small and medium sized enterprises (SMSE), which constitute a small tax base.³¹⁵ In 2008, the Palestinian VAT decreased from 16% to 14.5%.³¹⁶

In 2012, the World Bank and IMF assessed that a portion of PA public finance reform should be aimed at broadening the tax base.³¹⁷ Faced with less than a 40 percent compliance rate for paying income taxes in the WBGS, the IMF suggested the PA enhance tax payment compliance by

³¹² (IMF 2011)

In Tables 16, 17, and 19, expenditures and other transactions are classified as either commitment or cash. A commitment transaction is recorded when a contract is signed or a purchase order is made. A commitment transaction that implies goods will be delivered, services will be rendered, and a cash payment will be made later, and it may not be rendered in the same fiscal year. A commitment transaction is simply an allotment for a future expenditure that may not transpire. Debt interest payments and the wage bill are types of commitment transactions. A cash transaction is recorded when a cash payment is made for a good or service, and is more commonly used in public accounting. While commitment and cash transactions are both important, in government accounting cash transactions will be referenced in the analysis of PA expenditures and transactions whenever possible.

³¹³ (IMF 2012)

³¹⁴ The World Bank. "Paying Taxes." *Doing Business*. <http://www.doingbusiness.org/data/exploretopics/paying-taxes> (accessed January 5, 2013).

Temple-West, Patrick, and Kim Dixon. "US displacing Japan as No 1 for highest corp taxes." *Reuters*. March 30, 2012. <http://www.reuters.com/article/2012/03/30/usa-tax-japan-idUSL2E8EU5VV20120330> (accessed June 4, 2012).

³¹⁵ Kawasmi, Hazem, and Simon White. *Micro, Small and Medium-sized Enterprises Assessment Report: Towards a Policy Framework for the Development of Micro, Small and Medium-sized Enterprises in the Occupied Palestine Territory*. International Labour Organization and the Ministry of National Economy, 2010.

³¹⁶ The World Bank. "Business Reforms in the West Bank and Gaza." *Doing Business*. 2013. <http://doingbusiness.org/reforms/overview/economy/west-bank-and-gaza> (accessed January 4, 2013).

³¹⁷ (The World Bank 2012)
(IMF 2012)

implementing a self-assessment system and integrating the administration of VAT and income tax.³¹⁸

While the 2011 portion of PA revenues that came from taxes (21 percent) was sizeable, revenues were far below expenditures, so the PA's revenue base must grow to meet its expenditure needs, or its expenditures must be reduced so that its revenues are sufficient to meet expenditures and sustainable external assistance.

While clearance revenues/taxes constituted the largest portion of revenues and domestic taxes constitute the next largest portion of PA revenues, nontax revenues constituted the smallest portion of PA revenues. Nontax revenue is any government revenue apart from taxes. Examples of nontax revenues include fines and fees. The PA received US\$256 million in nontax revenues in 2011, below a budgeted US\$300 million. Further, nontax revenues in 2011 were lower than nontax revenues in 2010 and 2009, at US\$270 million and US\$284 million, respectively. The IMF identifies the primary reasons for lower nontax revenue in 2011 reporting, "a wide substitution of petroleum products imported into Gaza from Israel with cheaper products from Egypt..., the unbudgeted partial repayment of license fees to the Palestinian Telecommunications Group," and lower than budgeted transfers of dividend payments from the Palestine Investment Fund (PIF).³¹⁹

The most significant source of PA revenues is Israeli border clearance revenues. The Interim Agreement expanded the jurisdiction of the PA, and the PA began collecting income taxes in its jurisdiction and continued to receive 75 percent of revenues from income taxes collected from Palestinians employed in Israel from the GoI.³²⁰

Businesses operating in Israeli settlements pay taxes to the GoI. While these businesses provide much needed and higher paying jobs to Palestinians, it could be more beneficial to the PA if it had jurisdiction over this area as Palestinian businesses could be established, and the PA would

³¹⁸ (IMF 2012)

³¹⁹ (IMF 2011)

³²⁰ (Gaza-Jericho Agreement Annex IV 1994)

receive 100 percent of taxes from the businesses and individuals, assuming that there would be the same or higher level of output in the areas as there is now.³²¹

Despite a clear mandate of clearance revenues based on final destination as stipulated in the Oslo Accords, this is not always followed in practice.³²² More than half of the PA's imports from Israel are produced in a third country. Israeli importers purchase items in bulk and resell them to Palestinian consumers. These "indirect imports" accounted for at least 58 percent of trade that was reported as PA imports from Israel in 2008, and Israel retained all customs revenues collected on these imports, which would have amounted to approximately US\$0.5 billion. These funds would have reduced the 2008 budget deficit and external financing requirements by 26 percent. This arrangement prevents the PA from collecting these revenues. Therefore, a trade arrangement that allows third countries to export directly to the West Bank or Gaza Strip would be preferable to the PA.³²³

Border clearance revenues constituted 70 percent of the PA revenues and 46 percent of the PA's budget overall in 2011. The actual amount in 2011, US\$1.424 billion, fell below the budgeted US\$1.442 billion.³²⁴ Figure 4 shows that clearance revenues roughly doubled from 2004 to 2010.

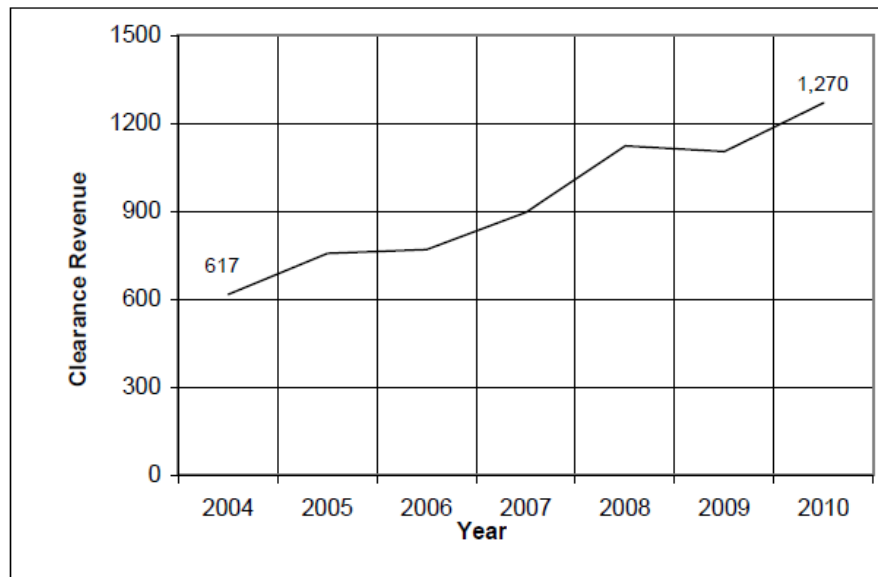
³²¹ (Gaza-Jericho Agreement Annex IV 1994)

³²² Article 15 of Annex IV of the Gaza-Jericho Agreement states, "The clearance of revenues from all import taxes and levies, between Israel and the Palestinian Authority, will be based on the principle of the place of final destination. In addition, these tax revenues will be allocated to the Palestinian Authority even if the importation was carried out by Israeli importers when the final destination explicitly stated in the import documentation is a corporation registered by the Palestinian Authority and conducting business activity in the Areas." (Gaza-Jericho Agreement Annex IV 1994)

³²³ UNCTAD. *Report on UNCTAD assistance to the Palestinian people: Developments in the economy of the occupied Palestinian territory*. Geneva: United Nations Conference on Trade and Development (UNCTAD), 2011.

³²⁴ (IMF 2012)

Figure 4: Total Clearance Revenues for the PA, 2004-2010
(value in US\$ Millions)



Source: Palestinian Central Bureau of Statistics. *Performance of Palestinian Economy, 2010*.
Palestinian National Authority, 2011.

While the PER arrangement clearly stipulates that Israel will transfer the taxes and clearance revenues in a timely manner, there have been delays in their transfer. The present system of clearance revenues transfers is a source of Palestinian fiscal instability. The GoI has withheld funds collected from Palestinian workers, mainly the equalization levies, national insurance contributions and pension funds.³²⁵ The GoI has delayed the transfer of funds to the PA many times since the arrangement was established during the Oslo Accords due to political reasons, periods of intensified hostilities, the Second Intifada and Hamas' electoral victory.³²⁶ As a result of the latter situation, the PA nearly collapsed in 2006, exposing the fragility of PA stability and its vulnerable fiscal situation.³²⁷

³²⁵ (PLO Negotiations Office 2011)

³²⁶ (IMF 2011)

³²⁷ Turner, Mandy. "Creating 'Partners for Peace': The Palestinian Authority and the International Statebuilding Agenda." *Journal of Intervention and Statebuilding* 5, no. 1 (2011): 1-21.

In 2011, the unstable nature of the system of transfer of clearance revenues caused great strain on the PA. Israel temporarily suspended the transfer of clearance revenues in May, and again in November 2011 in retaliation for Palestinian's UN statehood bid, though it released the funds in late November.³²⁸ While donors have covered the PA's revenue shortfall in the past when Israel withheld or delayed clearance funds transfers, donor fatigue and the worldwide economic downturn in 2011 made it more difficult for the PA to secure aid to replace the funds.

The IMF and World Bank have recognized that clearance revenue transfers are a critical PA revenue source and indicate there have been substantial tax leakages at the borders, greatly reducing the clearance revenues the PA receives. Due to a lack of data provided on the matter by the GoI, the extent of the tax leakages has been impossible to determine, though it is clear small changes to the collection system could result in big increases in revenues for the PA. The IMF indicated that a five percent increase in clearance revenues would increase the PA's 2012 budget by US\$75 million.³²⁹

During the reform years, Palestinian and Israeli Ministries of Finance discussed the problem and made progress on developing plans to reduce leakages, but the implementation of their plans was stalled once Palestinians reached a controversial reconciliation agreement in April 2011. The plans had many features, including: 1) an increase in the amount of real time data on trade between Israel and the WBGS shared by Israel through electronic interfaces, including data on imports whose final destination is the WBGS; 2) allowing the PA to pay electricity bills directly to the Israeli provider in place of automatic deductions from clearance revenues transferred; 3) allowing PA officials to be present at border crossings; 4) reviewing processes at the borders regarding revenue sharing to ensure they are consistent with the Paris Protocol on Economic Relations (PER) provisions; and 5) addressing the problem of Palestinian traders underreporting declarations and working towards collecting the full amount of VAT and excise taxes dues from these traders. Historically, Palestinians

³²⁸ (The World Bank 2012)

³²⁹ (IMF 2012)

have under-invoiced their declarations and there has been low follow-through by Israeli Customs authorities to remedy this issue, which ultimately resulted in lower VAT collections. Further, in order for the PA to get VAT funds from the GoI, it had to present copies of receipts for imports.³³⁰ With no presence at the borders, the World Bank reports that “it is difficult to collect the receipts from Palestinian merchants seeking to avoid paying VAT” and the GoI has a poor track record of questioning dubious declared values on WBGS-bound goods.³³¹ A remedy to this problem will require the Israeli MoF sharing information on VAT receipts collected at the borders with the PA. The IMF encourages the full implementation of the Paris Protocol, specifically with regards to practices surrounding exit fees distribution, suggesting that exit fees levied by Israel on Palestinian passengers crossing the Allenby Bridge between the West Bank and Jordan be shared equally between the GoI and the PA.³³²

Fiscal Policies and Performance

Table 17 outlines selected economic indicators for the WBGS in 2009, 2010, and 2011, with projections for 2012 through 2015.

³³⁰ (IMF 2012)

(The World Bank 2012)

³³¹ (The World Bank 2012)

³³² (IMF 2011)

Table 17: Selected Economic Indicators in the WBS, 2009-2015

(Population: 4 million; 2010 est.)
(Per capita GDP: \$2,058; 2010)
(Poverty rate: 18 percent in the West Bank and 38 percent in Gaza Strip; 2010 est.)

| | 2009 | 2010 | Est. 2011 | Projections 2012 | 2013 | 2014 | 2015 |
|--|-------|-------|----------------------------|---------------------|--------|--------|--------|
| Output and prices | | | | | | | |
| | | | (Annual percentage change) | | | | |
| Real GDP (2004 market prices) | 7.4 | 9.8 | 9.5 | 6.2 | 7.0 | 7.4 | 8.0 |
| West Bank | 7.1 | 6.8 | 5.7 | 5.0 | 6.0 | 6.3 | 7.0 |
| Gaza | 8.4 | 19.5 | 20.2 | 9.0 | 9.0 | 10.0 | 10.0 |
| CPI inflation rate (end-of-period) | 4.3 | 2.8 | 2.7 | 2.3 | 2.0 | 2.0 | 2.0 |
| CPI inflation rate (period average) | 2.8 | 3.7 | 2.9 | 3.8 | 2.1 | 2.0 | 2.0 |
| Investment and saving | | | | | | | |
| | | | (In percent of GDP) | | | | |
| Gross capital formation, of which: | 18.3 | 18.5 | 18.2 | 19.2 | 21.0 | 22.9 | 24.5 |
| Public | 6.3 | 4.4 | 4.1 | 4.3 | 5.3 | 6.5 | 7.3 |
| Private | 12.0 | 14.1 | 14.2 | 14.9 | 15.7 | 16.5 | 17.2 |
| Gross national savings, of which: | 6.3 | 7.9 | 8.8 | 9.8 | 12.0 | 10.9 | 10.4 |
| Public | 9.1 | 3.7 | 1.6 | -1.8 | 4.3 | 5.5 | 6.5 |
| Private | -2.7 | 4.2 | 7.2 | 11.6 | 7.6 | 5.4 | 4.0 |
| Saving-investment balance | -12.0 | -10.6 | -9.4 | -9.4 | -9.1 | -12.0 | -14.1 |
| Public finances 1/ | | | | | | | |
| | | | (In percent of GDP) | | | | |
| Revenues | 23.8 | 23.1 | 20.9 | 20.6 | 21.9 | 22.4 | 23.0 |
| Recurrent expenditures and net lending | 47.5 | 36.8 | 33.9 | 31.0 | 29.1 | 27.1 | 25.8 |
| Wage expenditures | 21.8 | 19.3 | 18.2 | 17.5 | 16.7 | 16.0 | 15.3 |
| Nonwage expenditures | 20.1 | 14.7 | 14.3 | 12.5 | 11.7 | 10.8 | 10.4 |
| Net lending | 5.6 | 2.8 | 1.4 | 1.0 | 0.7 | 0.3 | 0.1 |
| Recurrent balance (commitment, before external support) | -23.7 | -13.8 | -13.0 | -10.4 | -7.2 | -4.7 | -2.9 |
| Recurrent balance, cash (before external support) | -20.4 | -13.0 | -8.0 | -10.4 | -7.6 | -5.1 | -3.2 |
| Development expenditures | 6.0 | 3.3 | 3.0 | 3.3 | 4.3 | 5.5 | 6.5 |
| (In millions of U.S. dollars) | 400 | 274 | 295 | 350 | 500 | 700 | 900 |
| Overall balance (before external support) | -29.6 | -17.0 | -16.0 | -13.7 | -11.5 | -10.2 | -9.3 |
| External recurrent budgetary support (in billions of U.S. dollars) | 1.4 | 1.1 | 0.6 | 0.6 | 0.9 | 0.6 | 0.4 |
| Total external support, including for development expenditures | 26.1 | 15.3 | 9.6 | 8.6 | 11.9 | 10.6 | 9.7 |
| (In billions of U.S. dollars) | 1.8 | 1.3 | 0.9 | 0.9 | 1.4 | 1.3 | 1.3 |
| Financing gap (in billions of U.S. dollars) | ... | ... | ... | 0.5 | ... | ... | ... |
| Monetary sector 2/ | | | | | | | |
| | | | (Annual percentage change) | | | | |
| Credit to the private sector | 22.9 | 31.2 | 17.4 | 19.4 | 22.7 | 22.4 | 22.9 |
| Private sector deposits | 5.7 | 9.9 | 4.0 | 11.9 | 15.7 | 15.4 | 15.9 |
| External sector | | | | | | | |
| | | | (In percent of GDP) | | | | |
| Exports of goods and nonfactor services | 13.5 | 13.8 | 16.2 | 16.4 | 18.2 | 20.2 | 22.5 |
| Import of goods and nonfactor services | 65.3 | 55.5 | 56.5 | 55.3 | 59.8 | 63.3 | 66.4 |
| Net factor income | 7.9 | 7.2 | 6.7 | 6.4 | 6.1 | 5.9 | 5.6 |
| Net current transfers | 31.9 | 23.9 | 24.1 | 23.2 | 26.5 | 25.2 | 24.3 |
| Official transfers | 26.1 | 15.3 | 9.6 | 8.6 | 11.9 | 10.6 | 9.7 |
| Current account balance (excluding official transfers) | -38.1 | -25.9 | -19.0 | -18.0 | -21.0 | -22.6 | -23.8 |
| Current account balance (including official transfers) | -12.0 | -10.6 | -9.4 | -9.4 | -9.1 | -12.0 | -14.1 |
| Memorandum items: | | | | | | | |
| Nominal GDP (in millions of U.S. dollars) | 6,720 | 8,331 | 9,809 | 10,532 | 11,551 | 12,639 | 13,892 |
| Per capita nominal GDP (U.S. dollars) | 1,708 | 2,058 | 2,353 | 2,453 | 2,613 | 2,777 | 2,967 |
| Unemployment rate (average in percent of labor force) | 25 | 24 | 21 | 18 | 15 | 13 | 12 |
| Al Quds stock market index (annual percentage change) | 11.6 | -0.7 | -2.7 | ... | ... | ... | ... |

Sources: Palestinian authorities; and IMF staff estimates.

1/ Commitment basis.

2/ End-of-period; in U.S. dollar terms.

Source: (IMF 2012)

Economic performance in the WBS was strong during 2008 to 2011, in part due to an improved security situation and business environment, large inflows of external financing, and a

loosening of Israeli restrictions on movement within the West Bank and between the West Bank and Israel. The Gaza Strip experienced a strong recovery as it began rebounding from a low and depressed base following conflict and a loosening of Israeli closures. Table 18 includes economic indicators in the WBS during 2007 to 2011.

Table 18: Economic Indicators for the WBS, 2006-2011

| | 2007 | 2008 | 2009 | 2010 | Budget 2011 | Year 2011a/ |
|---|----------------------------|-------|-------|-------|-------------|-------------|
| Nominal exchange rate (average; NIS per US \$1) | 3.6 | 3.9 | 3.7 | 3.73 | 3.70 | 3.58 |
| Nominal GDP (in millions of dollars) | 5,204 | 6,108 | 6,720 | 8,331 | 9,163 | 9,809 |
| | (Annual Percentage Change) | | | | | |
| Real GDP (2004) Market Prices | -- | 7.1 | 7.4 | 9.3 | 7.0 | 9.5 |
| GDP in the West Bank | -- | 12.0 | 9.5 | 7.6 | 4.0 | 5.8 |
| GDP in the Gaza Strip | -- | -- | 8.4 | 19.5 | 20.2 | 20.0 |
| CPI inflation rate (end-of-period) | -- | 7.0 | 4.3 | 2.8 | 3.8 | 2.7 |
| CPI Inflation rate (period average) | -- | 9.9 | 2.8 | 3.7 | 4.0 | 2.9 |

Source: (IMF n.d.)

(IMF 2007)

(IMF 2011)

(IMF 2012)

Palestinian National Ministry of Finance. *Table 7: Total External Financing, Budget Support and Development*, Palestinian National Authority, 2012.

a/ Based on data for the first three quarters of 2011.

The West Bank experienced strong growth during the reform years at 12 percent, 9.5 percent, 7.6 percent, and 5.8 percent in 2008, 2009, 2010, and 2011 respectively.³³³ While GDP growth has fallen since 2008, it has remained impressively high and is now settling into more sustainable levels of growth.

The exchange rate in the WBS (reflecting the exchange rate of the Israeli New Sheqel with respect to the U.S. dollar) remained relatively stable during the reform period. In 2011, the exchange rate was lower than the PA had projected at NIS 3.58 to US\$1. The PA had budgeted for an exchange rate of NIS 3.70 to US\$1. The lower than projected exchange rate contributed to a small portion of the budget deficit, and was due to the depreciation of the US Dollar. Table 19 shows select fiscal

³³³ The GDP growth rate for 2011 is based on data from the first three quarters of 2011.

indicators expressed in terms of GDP. This data provides critical insights into the PA's fiscal management and economic performance in the WBS.

Table 19: Palestinian Fiscal Indicators, 2004-2011
(As a Percentage of GDP unless otherwise stated)

| | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | Year 2011 | Bud- get 2011 |
|---|------|-------|-------|-------|-------|-------|-------|--------------|---------------------|
| Memorandum Items | | | | | | | | | |
| Revenues | 23 | 27.5 | 25.4 | 24.4 | 25.7 | 23.8 | 23.1 | 20.9 | 23.5 |
| Recurrent expenditures & net lending | 37 | 44.5 | 50.2 | 48.2 | 47.2 | 47.5 | 36.9 | 33.9 | 35.5 |
| Wage expenditures | - | 22.4 | 26.3 | 24.6 | 23.8 | 21.8 | 19.4 | 18.2 | 18.7 |
| Non-wage expenditures | - | 14.5 | 16.5 | 13.3 | 16.1 | 20.1 | 14.7 | 14.3 | 14.9 |
| Net lending | - | 7.7 | 7.4 | 10.3 | 7.3 | 5.6 | 2.8 | 1.4 | 1.7 |
| Recur. balance before ext. support a/ | - | -17.0 | -24.9 | -23.8 | -21.6 | -23.7 | -13.8 | -13.0 | -11.8 |
| Recurrent balance before external support b/ | - | - | -26 | -16.1 | -27.7 | -20.4 | -13.0 | -8.0 | -10.6 |
| External support (recurrent) | - | 7.8 | 16.3 | 19.4 | 28.9 | 20.2 | 13.8 | 7.9 | 10.6 |
| Ext.support (including development expend.) c/ | - | - | - | - | 31.7 | 26.1 | 15.3 | 9.6 | 11.5 |
| Development expenditures b/ | - | - | - | - | 3.5 | 6.0 | 3.3 | 3.0 | 5.5 |
| Overall balance (before ext. budget support) b/ | - | -23.4 | -30.5 | -26.3 | -31.2 | -26.4 | -16.3 | -11.0 | -16.0 |

Source: (IMF n.d.)

(IMF 2007)

(IMF 2012)

a/ Commitment basis

b/ Cash basis

c/ In billions of dollars

During 2004 to 2011 nominal PA expenditures doubled, thanks in large part to greater external assistance (see Table 19 above) and slightly increased revenues. While revenues rose from US\$1,568 million in 2008 to US\$2,046 in 2011, thanks in large part to large sums of external assistance, revenues as a percentage of GDP fell from 25.7 percent in 2008 to 20.9 percent in 2011. At US\$2.046 billion in 2011, revenues were US\$103 million less than the budgeted US\$2.149 billion. During the reform years, taxes and clearance revenues accounted for the most significant increase in revenues while nontax revenues declined slightly. In 2011, clearance revenues accounted for two-thirds of the PA's revenues, financed around 43 percent of PA spending, and were equivalent to 15 percent of GDP.³³⁴

³³⁴ (IMF 2012)

Notably, total recurrent expenditures as a percentage of GDP fell appreciably during the reform years, from 47.5 percent of GDP in 2009 to 33.9 percent of GDP in 2011 and are down from a peak of 50.2 percent of GDP in 2006. Within expenditures, the nominal wage bill approximately doubled since 2004, but has fallen as a percentage of GDP from 21.8 percent in 2009 to 18.2 percent in 2011, and is down from a peak of 26.3 percent of GDP in 2006. External assistance to the PA was lower than pledged and the PA spent 1.678 billion out of a budgeted \$1.709 billion wage bill.

While public employment experienced net growth during the reform years, some sectors grew, while others contracted. The largest area of PA employment growth was the security sector in the West Bank, with 1,122 new employees and the second largest area of growth was the addition of 546 new workers in the education sector in the WBGs in 2011.³³⁵

These statistics demonstrate that the PA has made progress on its expenditure management goals as part of its overall public finance reform. However, while expenditures as a percentage of GDP have dropped consistently over the past six years, the PA's expenditures remain a high and unsustainable proportion of GDP. The PA should continue to reduce expenditures as a percentage of GDP, while it should continue to grow and diversify the revenue base.³³⁶

PA lending and development spending have constituted a small percentage of GDP. PA lending began on a downward trend beginning in 2006 and fell from 5.6 percent of GDP in 2009 to 1.4 percent in 2011. This reduction was achieved due to the PA ending subsidies to municipalities, mostly for electricity bills that were not paid to the Israel Electric Corporation.³³⁷

As a percentage of GDP, development spending constituted 3.5 percent in 2008, 6.0 percent in 2009, 3.3 percent in 2010, and 3.0 percent in 2011. Notably, the PA had budgeted for development

³³⁵ (The World Bank 2012)

³³⁶ The World Bank. *Towards a Palestinian State: Reforms for Fiscal Strengthening*. Economic Monitoring Report to the Ad Hoc Liaison Committee, The World Bank, 2010.

³³⁷ (IMF 2012)

expenditures that would constitute 5.5 percent of GDP in 2011, but spent less in part due to fiscal retrenchment measures necessitated by lower than expected aid levels.

The PA's negative cash fiscal balance remained high at the end of the reform years, but was far lower than in years past. In 2004, the overall cash balance was -US\$124 million; it peaked at US\$ -1,905 billion in 2008, constituting -31.2 percent of GDP, shown in Tables 16 and 19, respectively. During the reform years, the PA's overall cash fiscal balance fell from US\$-1,905 billion in 2008 to US\$-1,087 billion in 2011, constituting -8.0 percent of GDP in 2011. The lower recurrent cash fiscal balance reflects lower levels of PA wage and operating expenditures as a percentage of GDP and lower levels of external assistance in the later years, though it remains an exceptionally large negative cash balance.

At first glance, it could appear that the PA was positioned to incur a massive budget deficit each year with significantly more expenditures than revenues in its budget, especially during the early reform years. However, the exceptionally high budget deficit levels were part of a deliberate plan based on enormous pledges of external assistance by the international community that wanted to provide financing the PA requested to improve and expand services, particularly in the judicial and security sectors. The PA was the recipient of large amounts of planned external assistance relative to GDP that has largely offset the correspondingly large negative fiscal balance.

PA finances followed a different trend in 2011 from previous years. In addition to over optimistic projections mentioned earlier, the PA received lower than expected external financing and there were delays in clearance revenues, all of which contributed to an accumulation of domestic shortfalls, including arrears to the pension fund, private sector suppliers, development projects, and in PA wage payments.³³⁸ The shortfalls resulted in a fiscal crisis for the PA and in turn the government greatly reduced budgeted expenditures and borrowed up to commercial bank limits including US\$137 million to meet this financing gap, reducing the availability of financing for the

³³⁸ (Palestinian National Ministry of Finance 2012)

private sector. By the end of 2011, debt to commercial banks rose to dangerously high levels at US\$1.1 billion, which is equivalent to approximately 93 percent of the Palestinian banks' equity.³³⁹ The PA was still unable to pay bills to its suppliers in a timely manner, hurting business confidence and reducing output relative to what it could have been. Due to the lower than expected external financing, the PA incurred additional costs in 2011 such as interest payments and other charges required by private suppliers of goods and services that were affected by the PA's funding shortfalls.³⁴⁰

Factors Contributing to Economic Growth

It is critical to identify factors contributing to Palestinian economic growth. During the reform years, the WBGS, especially the West Bank, was experiencing a period of relative peace and the economy was recovering from the severe downturn and damage it suffered during the Second Intifada. The IMF identified sound economic management; policy reforms such as strengthening regulation and supervision of banks in the WBGS; large quantities of donor aid relative to the size of the economy, and the easing of Israeli restrictions on internal movement and external trade as factors contributing to economic growth.³⁴¹ Other factors that should be noted include actions by the GoI in 2011, including, "upgrading commercial crossings, approving projects in Area C, increasing the number of permits for Palestinian employment in Israel, and pushing forward an agreement to build four electricity substations in the West Bank to increase the amount of electricity available for further economic development."³⁴² Mohammad Mustafa, Head of the Palestine Investment Fund, also credits political stability, improved security in the West Bank, and institutional, legal, and economic reforms as contributing factors to economic growth in the West Bank.³⁴³ The IMF identified key areas that could further increase GDP growth including the fulfillment of pledges of assistance by the

³³⁹ (IMF 2012)

³⁴⁰ (IMF 2011)

³⁴¹ (IMF 2011)

³⁴² (State of Israel 2012)

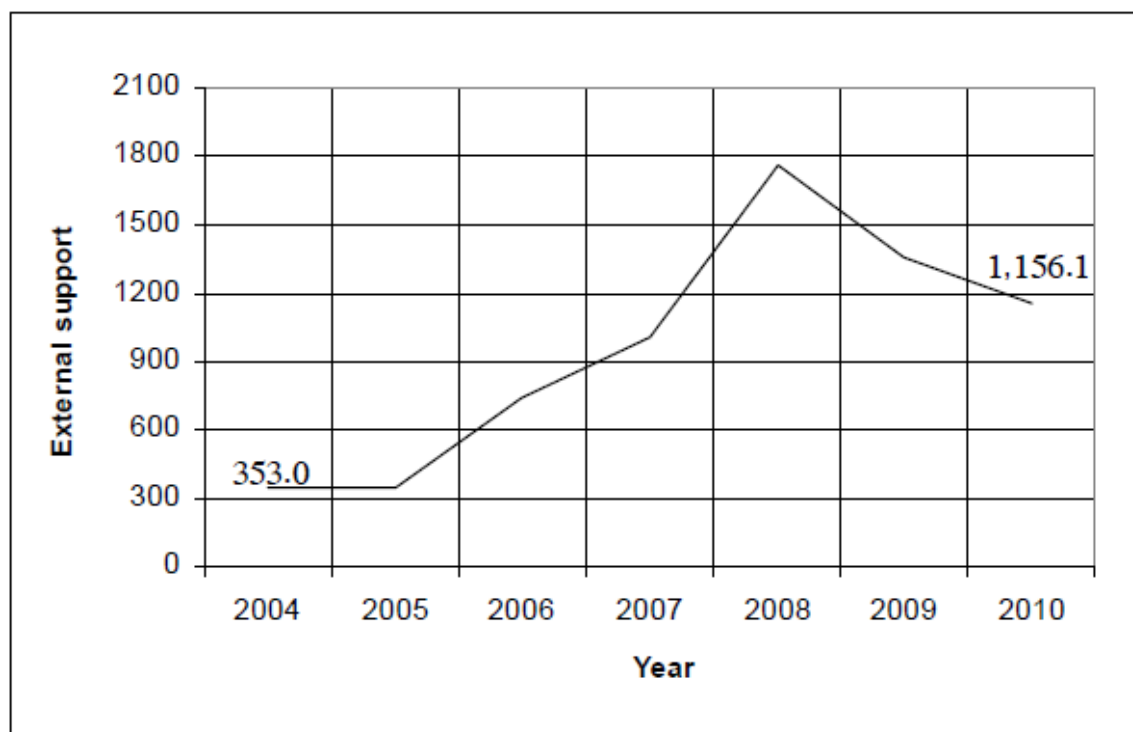
³⁴³ (Journal of Palestine Studies 2010)

international community, on time clearance revenue transfers from Israel to the PA, and further removal of Israeli barriers to movement in the West Bank. The World Bank offered similar sentiments, remarking that sustainable economic growth “necessitates a lifting of Israeli restrictions on access to land, water, a range of raw materials, and export markets.”³⁴⁴

Foreign Aid and the Non-Governmental Organization Sector

Following the Second Intifada, PA leaders indicated that very large levels of external financing were needed to finance its physical reconstruction, and governance development initiatives that would create conditions conducive to economic growth. The international community responded by providing generous financing and technical assistance to support the PA reform agenda. The results included an expansion of PA services, especially in the security and education sectors. Figure 5 depicts levels of external support to the PA during 2004 to 2010.

Figure 5: External Support to the PA, 2004-2010
(Value in US \$ Million)



Source: (Palestinian Central Bureau of Statistics 2011)

³⁴⁴ (The World Bank 2012)

Following the end of the Second Intifada in 2005, external aid to the PA grew significantly and peaked in 2008. While aid has remained high, the amount of aid has declined each year since. The spike in funding not only stemmed from the international community's willingness to help rebuild following the Second Intifada, but also reflects their political support of the incoming leaders in the West Bank.

As shown in Table 16, in 2008, the PA received US\$1.979 billion in external assistance, equivalent to 31.7 percent of GDP (as shown in Table 19) and budgeted for and received progressively less financing in subsequent years. While the rise and fall in external financing to the PA largely reflected the PA's requests for funds, the PA faced a challenge in 2011 when external financing was far lower than the aid levels pledged. In 2011 the PA collected a mere US\$169 million of a projected US\$500 million for development expenditures, while external support for recurrent expenditures totaled US\$771 million of a projected US \$967 million showing a higher willingness by the international community to fund the PA's recurrent expenditures than its development initiatives. The year 2011 was marked by social unrest in many Middle Eastern and North African countries and many of those countries that had made financial pledges to the PA but were unable to or unwilling to fulfill their promises.³⁴⁵

Table 20 identifies major donors to the PA during 2010 and 2011, including individual countries and member state organizations.³⁴⁶

³⁴⁵ (IMF 2012)

³⁴⁶ This data is not available in US Dollars.

Table 20: External Financing to the PA, 2010-2011 by donor
(In million NIS)

| | 2010 | 2011 | Actual as % 2011 Budget | Budget 2011 |
|--------------------------------------|---------------|----------------|----------------------------------|----------------|
| Total External Financing | 4749.2 | 3519.9 | 64.8% | 5429 |
| 1 Budget Support | 4265.0 | 2915.2 | 81.5% | 35.79 |
| a. Arab Donors | 860.8 | 1031.9 | | |
| Algeria | 98.2 | 187.1 | | |
| Egypt | 30.1 | 5.8 | | |
| Kingdom of Saudi Arabia (a) | 536.0 | 650.4 | | |
| United Arab Emirates | 160.0 | 152.3 | | |
| Qatar | 36.4 | - | | |
| Oman | - | 36.2 | | |
| b. International Donors | 3404.2 | 1883.3 | | |
| USA | 831.3 | 185.0a/ | | |
| PEGASE | 1397.2 | 1029.9 | | |
| Civil servants and pensioners (b) | 1029.4 | 857.4 | | |
| Vulnerable Palestinian Families | 220.3 | 171.8 | | |
| Support to Essential Public Services | 106.9 | - | | |
| Payment of PA private sector arrears | 40.7 | 0.7 | | |
| India | 36.9 | - | | |
| France | 59.3 | 52.4 | | |
| Russia | 36.9 | - | | |
| World Bank | 1042.6 | 616.1 | | |
| Trust Fund | 825.7 | 600.2 | | |
| Development Grant | 148.5 | - | | |
| ESSP | 30.6 | 11.5 | | |
| FPCR | 12.7 | - | | |
| SSNRP | 25.1 | 4.3 | | |
| 2 Development Financing (c) | 484.2 | 604.7 | 32.7% | 1850 |
| CBPERIP | 3.5 | 0.5 | | |
| Co-Financing for Projects of MOEd | - | 63.1 | | |
| Old Grants for Line Ministries | 30.7 | 34.0 | | |
| Others | 450.0 | 507.2 | | |

Source: (Palestinian National Ministry of Finance 2012)

This figure is not representative of the amount of external financing provided by the US to the PA in 2011. See explanation on page 171.

a/ Saudi Arabia: In 2011, US\$200 million grant, of which US\$150 million is budget support and US\$50 million is development support (September).

b/Civil servants and pensioners: Civil servants and pensioners and civil police and civil defense.

c/ Development Financing include all of the CBPERIP, Co. Financing for Projects (MOEd), Old Grants for line ministries, others.

Table 20 shows that overall, external financing to the PA fell considerably from 2010 to 2011. Saudi Arabia, Algeria, the U.S., the United Arab Emirates and European countries (through

PEGASE) contributed large amounts of external financing to the PA.³⁴⁷ Contributions from Egypt and the World Bank decreased. Russia, India, and Qatar did not provide financing to the PA in 2011, though these countries had contributed in 2010.

While Table 20 indicates a sharp drop in U.S. contributions from 2010 to 2011, U.S. budget support to the PA actually increased from US\$150 million in 2010 to US\$200 million in 2011.³⁴⁸ Further, U.S. budgetary security assistance to the PA is reported separately and totaled US\$150 million in 2011. The total of all U.S. funding to the WBGS is much higher. Zanutti reports: "U.S. bilateral assistance to the West Bank and Gaza Strip has averaged nearly US\$600 million." Typically, the U.S. allocates US\$200 million in budgetary assistance, US\$100 million in security assistance for the PA in the West Bank, and US\$300 million for project assistance through grants to PNGOs.³⁴⁹ As a comparison, the U.S. gave US\$3 billion in military aid to Israel in 2011 and from 2009 to 2018, the U.S. will give US\$30 billion in military aid to Israel. Israel has been the largest recipient of U.S. aid since WWII, totaling US\$115 billion, with two-thirds of it being military aid.³⁵⁰

Separate from providing funding to the PA, the international community supports Palestinian social and economic development through financing the work of Palestinian and international NGOs that provide development assistance.

The 2009 Palestine Economic Policy Research Institute (MAS) publication, "Tracking External Donor Funding to Palestinian Non-Governmental Organizations in the West Bank and Gaza 1999-2008" indicates that "between 1999 and 2008, external aid to the West Bank and Gaza Strip

³⁴⁷ PEGASE is the acronym for Mécanisme Palestino-Européen de Gestion de l'Aide Socio-Economique. Launched in 2008, PEGASE is an instrument to channel EU and international assistance as a contribution to the PA's state-building initiatives, specifically supporting good governance and rule of law initiatives.

³⁴⁸ The 2011 CBS Report for Congress detailed a contribution from the US of NIS 185 million (approximately US\$49 million dollars) does not reflect the total amount of funds the US allocated to the PA in 2011. According to a November 2011 Congressional Research Service report, US aid to the PA totaled US\$200 million in 2011, though US\$150 million was distributed in November 2010. Likewise, the US transferred US\$75 million in November 2009 for the PA's 2010 budget for a total of US\$150 million in 2010.

Zanutti, Jim. "The Palestinians: Background and US Relations." CBS Report for Congress, 2011.

³⁴⁹ (Zanutti, The Palestinians: Background and US Relations 2011)

³⁵⁰ Ruebner, Josh. *U.S. Military Aid to Israel: Policy Implications and Options*. US Campaign to End the Israeli Occupation, 2012.

increased by over 600% to 3.25 billion US Dollars per year.”³⁵¹ Lecturer, editor and author on peace-building and conflict resolution, Mandy Turner, points out that the donor community to Palestine is made up of a complex web of 42 donor countries and 30 UN and other multilateral agencies that provide assistance.³⁵²

The same MAS publication tracked external donor funding to Palestinian non-governmental organizations (PNGOs) and among the findings were that PNGOs in the WBGS have a larger role than country NGOs in countries with similar levels of per capita income. PNGOs were established to serve Palestinian needs related to the Israeli occupation such as advocating for land, water, and human rights, and the needs the nascent PA was unable to fulfill in the 1990s, but their pervasiveness and expansion indicates that foreign aid agencies and individual countries are supporting Palestinian development through PNGOs. Further, the MAS publication reported that in the WBGS, “between 1999 and 2008, external aid to PNGPs increased by over 500% from 48 million US Dollars in 1999 to 257 million in 2008.”³⁵³

PNGOs grew from 930 in 2000 to about 1,500 in 2007, and about 10 percent of international aid to the WBGS is channeled through PNGOs. Europe was the largest donor to PNGOs, providing nearly 70 percent of their financing. External aid was channeled through PNGOs to address a wide range of issues, in which 30 percent went to PNGOs engaged in rights-based activities; 26 percent went to PNGOs engaged in social services; 22 percent went to PNGOs engaged in stimulating the economy; 14 percent went to PNGOs engaged in education; and nine percent went to PNGOs engaged in relief work. Arab countries were less likely to provide financing to PNGOs than they

³⁵¹ (DeVair and Tartir 2009)

(Turner, Creating ‘Partners for Peace’ 2011)

³⁵² (Turner, Creating ‘Partners for Peace’ 2011)

³⁵³ (DeVair and Tartir 2009, x)

were to provide direct budget support to the PA. Moreover, compared to Western donors, funding from Arab countries steadily decreased.³⁵⁴

Table 21 includes a breakdown in the sources of revenues for PNGOs in the years 1999, 2006 and 2008.

Table 21: PNGO Sources of Revenue in 1999, 2006, and 2008 by percentage

| Source/ Year | 1999 | 2006 | 2008 |
|-----------------------------|------|------|------|
| External Aid | 46.8 | 60.9 | 78.3 |
| Self-generated Revenue | 28.8 | 21.5 | 12.4 |
| PA Funding | 4.9 | 0.7 | 0.8 |
| Local Donations | 10.8 | 9.3 | 5.3 |
| Donations from 1948'ers (*) | 1.4 | 3.7 | 0.1 |
| Donations from the Diaspora | 5.5 | 3.2 | 2.3 |
| Others | 1.8 | 0.7 | 0.8 |
| Total | 100 | 100 | 100 |

Sources: MAS, 2001, 2007 and 2009 – PNGO Survey.

Note: '1948'ers' refers to Palestinians living in what is now Israel.

Source: (DeVoor and Tartir 2009)

In 1999, external aid accounted for 46.8 percent of PNGO revenues and that figure increased substantially to 78.3 percent in 2008. Local donations represented a smaller percentage of PNGO revenues, and fell from 10.8 percent in 1999 to 5.3 percent in 2008. Contributions from Palestinian Diaspora to PNGOs have been nominal and falling, contributing 2.3 percent of all revenues to PNGOs in 2008.³⁵⁵ In 2010, remittances to Palestine were US\$2,476.5 million and dropped to US\$1,552.5 in 2011.³⁵⁶ While there were an estimated 5.6 million Palestinians living in the Diaspora in 2009, 4.8 million were refugees and received services from the UNRWA and the Red Crescent.³⁵⁷

³⁵⁴ (DeVoor and Tartir 2009)

³⁵⁵ (DeVoor and Tartir 2009)

³⁵⁶ (Palestinian Central Bureau of Statistics 2011)

³⁵⁷ Approximately 700,000 Palestinian were driven, or fled from Israel during the 1948 War and were not allowed to return home. The Diaspora include those that left in 1948 and their decedents. Represented by the PLO, members of the Diaspora make up the majority of the members of the PLO's Palestinian National Council. Palestinian Central Bureau of Statistics. *Statistical Abstract of Palestine*. Palestinian National Authority, December 2010.

A key source of PNGO revenues are from the United States Agency for International Development (USAID), which is separate from U.S. funds sent to the PA for budgetary assistance. Since 1994, USAID has provided US\$3.5 billion in economic assistance to Palestinians.³⁵⁸ With PNGOs entrenched throughout the WBGS, to help bring about successful development, they must partner and coordinate activities between each other and partner with Palestinian governmental institutions and the private sector.

Another venue through which the U.S. provides external finance is through the UNRWA.³⁵⁹ In its capacity as the largest state donor to the UNRWA, the U.S. has provided approximately US\$4 billion since its inception on May 1, 1950.³⁶⁰

The PA and PNGOs in the WBGS are vulnerable because of their high aid dependency. This unsustainable situation could quickly deteriorate without continued financing, resulting in the collapse of the Palestinian economy, which happened in the past, namely in 2006, due to conflict and funds being withheld for political reasons. Mandy Turner points out that past efforts by the international community to influence political outcomes in the WBGS have had mixed success and argues that the role of external actors in Palestinian state building has not been neutral or always positive. When Hamas members won the majority of the seats in the PLC in 2006, anti-terror laws prompted the international donor community to abruptly cut off aid to the PA Ministry of Finance's single treasury account. With the PA facing a complete collapse, Arab countries, the Arab League and some European countries provided financing indirectly to the PA, through the office of the

³⁵⁸ USAID. "USAID Contributes \$22.6M In Food Assistance For Palestinians In The West Bank And Gaza." April 21, 2012. http://transition.usaid.gov/wbg/2012PR/pr_0421.html (accessed June 13, 2012).

USAID often partners with the public and private sector, provides financing, often in the form of loans, and provides technical assistance to achieve shared objectives. USAID projects promote economic growth, agricultural development, increased exports, water resources and infrastructure, youth and education, democracy and governance, health, a reduction in restrictions to trade and movement, and humanitarian assistance.

³⁵⁹ Palestinian refugees include original refugees from the 1948 Arab-Israeli war and their descendants.

³⁶⁰ (Zanotti, *The Palestinians: Background and US Relations* 2011)

president. Eventually, the Quartet and the European commission approved the Temporary International Mechanism, allowing funds to continue finance the PA.³⁶¹

While some actors in the international community are driven to donate in the WBGS by a belief that they are supporting the peace process, critics of aid argue that the funds may have a limited impact on the peace process, and actually contribute to subsidizing and enabling an illegal Israeli occupation. UN officer Anne Le More and Brynen Rex, Professor at the University of Calgary, assert that donor assumptions about contributing to the peace process and peace building policies actually entrench the Israeli occupation. For example, by financing projects in Area A and Area B and avoiding Area C as it is controlled by the GoI, donors could be contributing to Palestine's fragmentation.³⁶² Another argument that is critical of aid posits that aid (i) fosters rent-seeking/corruption; (ii) supports malgovernance, and (iii) subsidizes bad economic policies. Rent-seeking in Palestine will be explored in the section *Public Sector Challenges*.

The U.S. Congress has used its position of influence to withhold promised funding from the PA, exposing the fragile nature of aid programs. In the fall of 2011, when the PA submitted an application to be considered a member state of the UN, the U.S. congress reacted by withholding US\$187 million in USAID funds as it felt the Palestinian action was inconsistent with promises to resolve issues surrounding Palestinian statehood through bilateral negotiations with Israel. Congress approved the release of US\$40 million in December 2011, but continued to withhold US\$147 million. The reduction in funds negatively affected USAID agencies' ability to function, the agency's partners, contractors who do business with the PNGOs, and the PA, causing frustration and resentment amongst Palestinians. Notably, the Israeli government did not support the funding freeze

³⁶¹ (Turner, Creating 'Partners for Peace' 2011)

IMF. *West Bank and Gaza: Recent Fiscal and Financial Developments*. International Monetary Fund (IMF), 2006.

³⁶² Brynen, Rex. "Donor Aid to Palestine: Attitudes, incentives, patronage and peace." In *Aid, diplomacy and facts on the ground: the Case of Palestine*, edited by: M. Keating, A. Le More and R. Lowe. London: Chatham House, 2005,133.

Le More, Anne. *International assistance to the Palestinians after Oslo: political guilt, wasted money*. Abingdon: Routledge, 2008.

because they feared it could weaken the PA and inadvertently empower Hamas and therefore encouraged the U.S. Congress to reconsider its decision. U.S. State Department spokesman Victoria Nuland reminded congress that the USAID funds are in the interest of the Palestinians, the U.S., and Israel saying, "This money goes to establishing and strengthening the institutions of a future Palestinian state, building a more democratic and stable and secure region."³⁶³

One such program that was cancelled due to the cut in funding was Palestinian Sesame Street, known as "Sharaa Simsim" in Arabic, which is a program that taught children about peace, tolerance, and fairness.³⁶⁴ Ultimately, U.S. Secretary of State Hilary Clinton overrode the U.S. congress recommendation and released the funds in April 2012.³⁶⁵

It seems that external assistance to the PA and PNGOs is critical for Palestine's social and economic development. However, external assistance is given with certain expectations in return and if Palestinians are unable or unwilling to meet those expectations, they should not take the aid because if they do not meet those expectations and external assistance is cut off suddenly, Palestine could quickly transform into an unstable or even unsafe environment for investors.

The Public Sector and Private Sector

This section of the thesis will identify the composition of the private sector, explore initiatives to grow micro, small, and medium-sized enterprises (MSME), identify challenges to the private sector, explore the role of the public sector, and provide an overview of employment and unemployment trends in the WBGS.

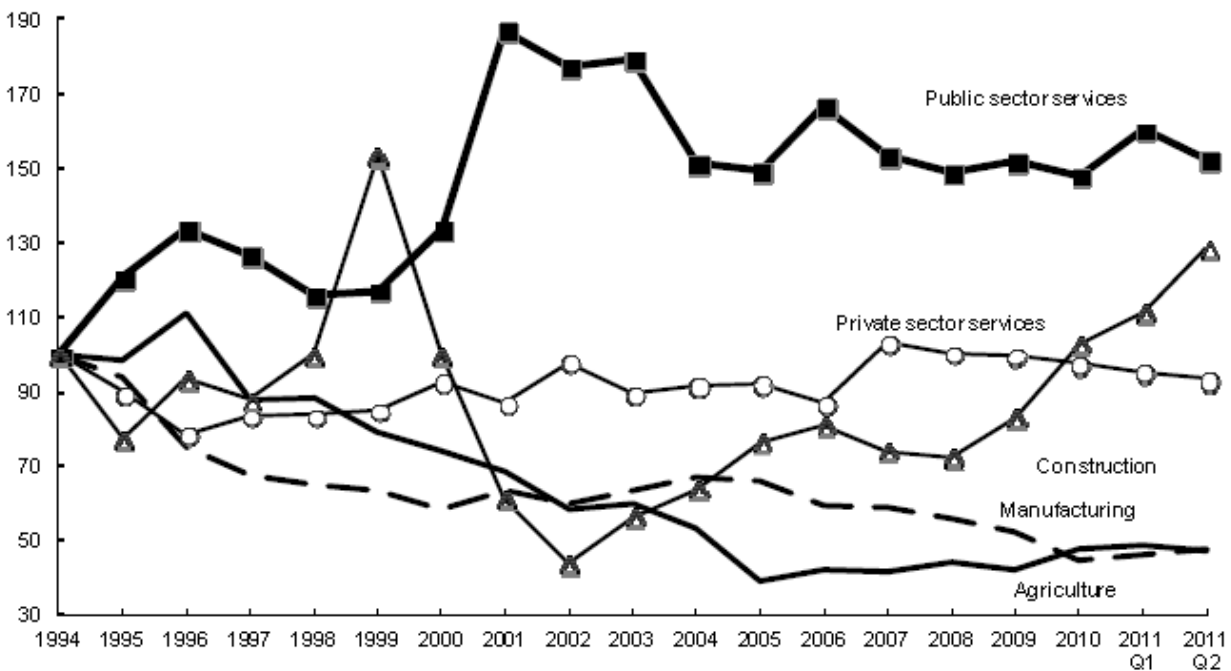
³⁶³ Spinner, Jackie. "Hard Times in Hebron: Can the thriving Palestinian economy survive as millions of US aid dollars slow to a trickle?" *Foreign Policy*, January 27, 2012.

³⁶⁴ Cheslow, Daniella. "Palestinian Sesame Street ails without US funds." *The Independent*. January 7, 2012. <http://www.independent.co.uk/news/world/middle-east/palestinian-sesame-street-ails-without-us-funds-6286418.html> (accessed March 8, 2012).

³⁶⁵ Sorcher, Sara. "Clinton Overrides Republican Lawmaker's Hold on Palestinian Aid." *National Journal*. April 11, 2012.

Services, construction, manufacturing and agriculture make up the private sector, while the public sector provides services. Figure 6 reflects the growth and contraction of these sectors as a percentage of GDP from 1994 through 2010 in the WBGS.

Figure 6: Palestinian Shares of GDP by Sector Relative to 1994
(Index; 1994=100)



Source: Palestinian Central Bureau of Statistics; and IMF staff estimates.
(IMF 2011)

Note: In 1994, the shares as percent of GDP were as follows: 9 for public sector services, 46 for private sector services, 9 for construction, 20 for manufacturing, and 13 for agriculture.

Figure 6 shows that public sector services have constituted the largest share of the Palestinian GDP since the onset of the Second Intifada, and remained relatively stable during the reform years. Private sector services declined slightly as a percentage of GDP, construction grew sharply, and manufacturing and agriculture remained relatively stable during the reform years, though the latter two sectors have steadily fallen as a percentage of GDP since 1994.

In 1994, private sector services output made up 46 percent of the GDP. Private sector output has remained relatively constant since 1994, but has fallen as a percentage of GDP and is a

fundamental problem in the Palestinian economy.³⁶⁶ There are many reasons for private sector decline as a percentage of GDP, namely the development and expansion of the public sector; wages being driven up by aid agencies; measures put in place by Israel; and PA policies, including those in the judicial and security sectors.

Many small and medium-sized businesses are informal and family run and are less likely than large businesses to engage in export activities.³⁶⁷ Small and medium-size businesses make up 99 percent of the private sector, whereas large private enterprises only make up one percent.³⁶⁸ Businesses operating in the WBGS largely do not have direct access to a seaport or airport, making export and import activities more difficult and making it difficult for Palestinians to travel abroad.³⁶⁹ The private sector will be explored further with regards to investment in Palestine in the subsequent section of this thesis.

Palestinian information and communications technology (ICT) businesses are a small but important part of the private sector with enormous potential. The ICT sector emerged in the 1980s, servicing the private sector. With the signing of the Oslo Accords in the 1990s, ICT demand increased significantly in the public and private sectors. Specifically, the creation of the PA and its demand for IT services drove the growth of the ICT sector. In 1995, Palestine Telecommunication Company (PalTel) was created as a public shareholding company and was the sole license holder in Palestine. In 2011, it served as the largest private sector employer in Palestine with 3,000 employees and \$US 800 million in assets.³⁷⁰ Further, two mobile operators were created in the WBGS, in 1999 and 2006.³⁷¹ By the end of 2011, mobile operator Jawwal had 2.42 million customers.³⁷²

³⁶⁶ (IMF 2011)

³⁶⁷ (The World Bank 2011)

³⁶⁸ (Kawasmi and White 2010)

³⁶⁹ In May 2012, al-Falastinia Airlines resumed flights at two airports in Egypt and Jordan.

³⁷⁰ PalTel Group. "Group Profile." *PalTel Group*. 2012.

<http://paltelgroup.ps/index.php?TemplateId=1&PageId=3&ParentId=7&MenuId=97&Lang=en> (accessed January 4, 2013).

³⁷¹ PalTrade. *Challenges Facing ICT in Palestine*. PalTrade, 2010.

In addition, the PA Ministry of Economy supported Palestinian entrepreneurs in their establishment of the Palestine Information Technology Association of Companies (PITA) in 1999, a non-government body that defends the interests of the ICT sector, which cooperates with PalTel.³⁷³

As a result of aforementioned initiatives, there are 391,000 thousand fixed and 169,000 thousand ADSL subscribers with affordable access to ICT and broad band technology and internet through PalTel.³⁷⁴ The Palestinian Central Bureau of Statistics reported that in 2011, 96.7 percent of households had TV sets, 50.9 percent of households own a computer, 30.4 percent of households had internet access, and 95 percent of households had a mobile line.³⁷⁵ The sector grew from 3 percent of GDP in 1999 to 4.9 percent in 2006, and ICT revenues grew from US\$440 million in 2004 to US\$882 million in 2007. Additionally, ICT exports grew from US\$79 million in 2004 to US\$196 million in 2007.³⁷⁶ Palestinian information technology and software exports have grown, in part because Cisco, HP, and Intel, among other firms, outsource development work to Palestinian software companies.³⁷⁷

Recognizing the growth potential in the information and communication technology sector, the Middle East Venture Capital Fund (MEVCF) created the first Palestinian venture capital fund in 2011. Cisco, Google, the Skoll Foundation and the European Investment Bank are among the

The Palestine Trade Center's (PalTrade) purpose is to lead the development of Palestinian trade as a driving force for sustainable national economic growth. As the National Trade Development Organization (NTDO) and a membership of more than 327 Palestinian leading businesses, PalTrade advocates a competitive, enabling business environment and is dedicated to improving trade competitiveness through trade promotion and capacity building. (Kawasmi and White 2010)

³⁷² Paltel Group. "2012 at a glance." *PalTel Group*. 2012.

<http://paltelgroup.ps/index.php?TemplateId=1&PageId=7&ParentId=14&MenuId=19&Lang=en> (accessed January 3, 2012).

³⁷³ PITA. "Overview." Palestine Information Technology Association of Companies. 2012.

<http://www.pita.ps/content/overview> (accessed January 3, 2013).

³⁷⁴ (Kawasmi and White 2010)

³⁷⁵ Palestinian Central Bureau of Statistics, Palestine - *Household Survey on Information and Communications Technology*. Palestinian National Authority, 2011.

³⁷⁶ (PalTrade 2010)

³⁷⁷ The Aspen Institute. "Palestinian technology venture fund MEVCF launches operations securing \$28.7M." *The Aspen Institute*. March 9, 2011. <http://www.aspeninstitute.org/news/2011/03/09/palestinian-technology-venture-fund-mevcf-launches-operations> (accessed March 11, 2012).

investors providing US\$28.7 million for the venture fund.³⁷⁸ The MEVCF targets internet, mobile and software startup companies in the West Bank to finance. The fund provides Palestinian software entrepreneurs access to risk capital and international markets, which they need in order to be competitive on the world stage. This type of investment is critical to providing high quality jobs to Palestinian engineers and programmers, many of which might otherwise leave Palestine in search of job opportunities.³⁷⁹

There is potential for significant growth of the Palestinian ICT sector. ICT is significant part of the Israeli and Jordanian economies. In Jordan, the ICT sector contribution to the GDP was 14 percent in 2009. There are many reasons more extensive ICT growth has not been realized in the WBGS. Significant challenges in the development of the ICT sector remain, and many are related to the Oslo Interim Agreement. In August 2010, PalTrade released a report outlining these challenges, including: “Telecommunication operators, Internet Service Providers, and ICT companies continue to have difficulty acquiring needed frequencies for existing and potential wireless networks, building telecom networks in Area C and importing needed equipment. New restrictions have been imposed by the Israelis, due to unclear restrictions and policies, including the refusal to release frequencies needed for the development of existing mobile networks and the development of new advanced wireless and mobile networks.”³⁸⁰ The report further explains that the Joint Technical Committee, which includes GoI and PA representatives and which is supposed to address technical issues between both sides has only met twice since 2000, in 2005 and 2007.

While the ICT subsector of the private sector has grown in recent years and promises tremendous growth potential, there has been a strong shift away from the agricultural sector. In 1994,

³⁷⁸ Takahashi, Dean. "Palestinians get their first technology venture fund." *Venture Beat*. March 9, 2011. <http://venturebeat.com/2011/03/09/palestinians-get-their-first-technology-venture-fund> (accessed June 3, 2012).

³⁷⁹ (The Aspen Institute 2011)

³⁸⁰ (PalTrade 2010)

agricultural output made up 13 percent as a share of the GDP, and fell to 6 percent in 2010.³⁸¹ The trend continued into 2011, with agricultural sector output in the West Bank falling by nearly 4.5 percent in the first three quarters.³⁸² The fragmentation of the West Bank has been caused by increasing Israeli settlement (from 1967 to present) and subsequent infrastructure within Area C where agricultural activities were once common that accelerated with the signing of the Oslo Accords in 1993. Coupled with restrictions on movement and restricted access to water, these measures have significantly limited agricultural potential in the West Bank.³⁸³ The fragmentation of the West Bank is demonstrated in Map 2.

At the same time, the PA and GoI provided inadequate measures for land registration to Palestinians, especially in Area C, which oftentimes resulted in a loss of land when Israeli settlers made claims for the land. The agriculture sector has also been hurt by limitations on exports as stipulated in the PER.³⁸⁴ Measures by the GoI also have had a negative effect on agriculture in the West Bank. The GoI prohibits many Palestinian farmers from living on their land in Area C and limits their access to the land during important times of the year. As a prerequisite to working the land, Palestinians must obtain permits, which have been increasingly difficult to obtain, with 94 percent of permit requests being rejected in recent years.³⁸⁵ The Israeli government typically requires that farmers enter their land on foot. By restricting farm machinery and extra laborers, Palestinian agricultural potential and profitability is greatly reduced. These measures have had an impact on the

³⁸¹ (IMF 2011)

³⁸² (The World Bank 2012)

³⁸³ See Map 1 for a depiction of Area A, B, and C.

³⁸⁴ (IMF 2012)

³⁸⁵ The Internal Displacement and Monitoring Center reports that “the number of permits issued has decreased by eighty-seven percent” between 2007 and 2012.

IDMC. *Report by the Internal Displacement Monitoring Centre to the Committee on the Elimination of Racial Discrimination on the occasion of Israel’s 14th, 15th and 16th Periodic Reports*. Internal Displacement Monitoring Centre (IDMC), 2012.

Oxfam. *On the Brink: Israeli Settlements and their impact on Palestinians in the Jordan Valley*. Oxfam Briefing Paper, Oxfam, 2012.

types of crops grown and Palestinian farmers are increasingly giving up more time and labor intensive fruit and vegetable harvests for less profitable olive harvests.³⁸⁶

On the eastern strip of the West Bank in the South, known as the Jordan Valley, the land is particularly fertile and ideal for agriculture. It is home to tens of thousands of temporary and permanently-based Palestinians. The land in the Jordan Valley available to Palestinian development is just six percent, while 37 Israeli settlements control 86 percent of the land. Settlers receive subsidies from the GoI and many of the individuals in the settlements are engaged in modern agribusinesses and export to Europe. Palestinians could also develop a cosmetics industry from mineral extraction from the Dead Sea, which has proved profitable for Israeli settlement communities. In 2012, Oxfam reflected on Palestinian economic potential and restrictions in the Jordan Valley including in a briefing paper: “It is estimated that if Israeli restrictions on Palestinian development were removed, an additional 50 sq/km of the Jordan Valley could be cultivated, potentially adding \$1bn a year to the Palestinian economy, or 9 percent of gross domestic product.” Presently, Palestinians are discouraged from engaging in agriculture in the Jordan Valley, and face obstacles such as obtaining permits and greatly increased transportation costs because of Israeli checkpoints.³⁸⁷

The manufacturing sector has also been in relative decline in recent years, signaling a process of de-industrialization. As a share of WGBS trade, manufacturing and agriculture fell from 33 percent of total trade in 1994 to 19 percent in 2010, and continued declining during the reform years.³⁸⁸ The World Bank reported that as a share of Palestinian employment, manufacturing fell from 17 percent of total employment in 1998 to 13 percent in 2009 and “value added in

³⁸⁶ Randles, Simon, and Amjad Alqasis. “Seam Zones turn 50,000 Palestinians into “Internally Stuck Persons”.” *Jadaliyya*. August 22, 2012. <http://www.jadaliyya.com/pages/index/6985/seam-zones-turn-50000-palestinians-into-internally> (accessed December 3, 2012).

³⁸⁷ (Oxfam 2012)

³⁸⁸ IMF. *Macroeconomic and Fiscal Framework for the West Bank and Gaza: Seventh Review of Progress*. Staff Report for the Meeting of the Ad Hoc Liaison Committee, Brussels: International Monetary Fund (IMF), 2011.

manufacturing fell by about 20 percent between 2004 and 2007.”³⁸⁹ From 2007 to 2010, the GoI imposed a blockade of consumer and capital goods and raw materials in the Gaza Strip, and partially lifted the blockade on consumer goods in 2010. Specifically, construction inputs and raw materials for the private sector were not allowed in, raising production costs. Higher production costs resulted from controls on imported capital goods and raw materials in the Gaza Strip imposed by the IDF that constrained revenue by restricting access to outside markets.³⁹⁰

Following long-term overall decline in manufacturing, a March 2012 World Bank report indicates that the manufacturing sector grew by more than 9 percent in the first three quarters of 2011 compared to the same period in 2010, possibly indicating a positive trend and stimulation from the numerous investment initiatives during the reform years. However, this sector continues to face many trade-related obstacles.³⁹¹ A 2011 United Nations Conference on Trade and Development (UNCTAD) report indicates that even more than other sectors of the economy, the manufacturing sector could benefit more from engaging in trade and being exposed to competitive global markets.³⁹² While the recent positive trend in the manufacturing sector appears promising, the improvement is nominal as the percentage of individuals employed in manufacturing has steadily decreased since 1995, as has its contribution to GDP.

Non-tradable sectors of the Palestinian economy, such as construction and related activities, are less vulnerable to physical controls and these sectors have grown in recent years. Although construction output has grown overall, productivity in this sector has fluctuated in correlation with conflicts and Israeli blockades. Certain inputs and raw materials needed for construction have been limited at times for import by Israel, particularly in the Gaza Strip. While construction had been a

³⁸⁹ The World Bank. *Building the Palestinian State: Sustaining Growth, Institutions, and Service Delivery*. Economic Monitoring Report to the Ad Hoc Liaison Committee, The World Bank, 2011.

³⁹⁰ IMF. *Macroeconomic and Fiscal Framework for the West Bank and Gaza: Sixth Review of Progress*. New York: Staff Report for the Meeting of the Ad Hoc Liaison Committee, 2010.

³⁹¹ (The World Bank 2012)

³⁹² (UNCTAD 2011)

strong driver of jobs and growth during 2009 and 2010 for West Bank Palestinians, by 2011, construction growth slowed considerably in 2011.³⁹³

Initiatives to Grow the Private Sector

A January 2012 World Bank report found that companies in the WBGS have been affected by years of conflict and are less sophisticated compared to companies in countries with similar income levels. In particular, companies were unfamiliar with how to go about accessing external markets and found investing in export markets challenging because it was expensive and time consuming. These companies found local investment more attractive and feasible. The World Bank suggested that technical assistance was more important to Palestinian enterprises than financial support in their success.³⁹⁴ The PA, foreign governments, and international bodies of states carried out initiatives during the reform years to increase the effectiveness and reach of existing companies in the WBGS, and to stimulate investment in Palestine.

In 2008, seventy percent of the MSMEs operated in the wholesale, retail, and manufacturing sectors, generating 87 percent of private sector employment. In 2010, the PA's Ministry of National Economy and the International Labour Organization partnered on a project to assess conditions for the development of MSMEs in the WBGS and to contribute towards the creation of more and better employment in the MSME sector. The project report indicated that limited access to markets and financing are constraining the growth of MSMEs, indicating more programs such as the World Bank program referenced above are needed. There are significant recent initiatives underway to fill this need. Microfinance institutions have begun to fill the need of financing for some of these firms, especially medium-sized and some small enterprises. Further, the report shows that many MSME's do not participate in vertical value chains, limiting their access to markets and they often do not own

³⁹³ (Palestinian Central Bureau of Statistics 2012)
(The World Bank 2012)

³⁹⁴ Nasir, John, Ranan Al-Muthaffar, Rimal Kacem. *Private Sector Development in Conflict Regions: Viable Support Options in the West Bank and Gaza*. Washington: World Bank, 2012.

land, reducing physical space in which to operate and trade from, and lack collateral to obtain loans from commercial banks. The report suggests the PA should continue implementing policy and legal reforms to incentivize the formalization of many formal MSMEs by implementing measures such as reducing the legal and regulatory burdens formal MSME's face.³⁹⁵ These types of assessments are a critical step in evaluating the needs of the private sector, and identifying steps the PA can take to support it.

In addition to efforts by the PA and the GoI's aforementioned initiatives in 2011, initiatives by international organizations also promoted private sector development and trade in the West Bank.³⁹⁶ The World Bank and the United Kingdom Department for International Development implemented a pilot project in the WBGS from July 2008 through April 2011 to assist Palestinian enterprises produce higher value goods and services and to enter new markets. Together, they created the Palestinian Facility for New Market Development (FNMD), which provided grants to individual firms and associated groups of companies to partially finance their investment projects and worked with clients throughout the process, and succeeded in assisting companies enter new local and export markets. By 2011, FNMD served 226 companies, 85 percent of which employed 20 workers or less from a broad range of sectors.³⁹⁷

While the FNMD could not reduce investment requirements, including funding and time resources, they were able to successfully provide capital and technical assistance to companies. During the program, 8.4 percent of clients became first time exporters, companies entered new markets, and companies developed or improved products or services. The FNMD project is an example of a successful model of private sector development in the WBGS. The World Bank credited the success to its program design. FNMD was in no way connected to the PA, making it less susceptible to disruptions in aid flows, which can be halted, depending on what political party is in

³⁹⁵ (Kawasmi and White 2010)

³⁹⁶ (State of Israel 2012)

³⁹⁷ (Nasir, Al-Muthaffar and Kacem 2012)

power. For example, when Hamas was elected in 2006, FNMD was able to continue its programs in Gaza, whereas programs relying on PA coordination and financing were deeply hurt or unable to operate due to funding cuts to the PA by the international community that was boycotting the election results.

In an effort to boost private sector growth, the World Bank is now in the process of establishing a larger and longer running project in Palestine, including a large multi-donor trust fund and a large private sector development intervention program.³⁹⁸ This investment model has shown that external assistance, coupled with high levels of technical assistance and independence from the government, has the potential to make a powerful contribution to promoting Palestinian economic growth.

PNGOs as a Challenge to the Private Sector

While some services PNGOs are critical to economic and social progress, such as job skills training and women empowerment, overall, the pervasiveness of PNGOs in the WBGS and their extensive financing and tax benefits has a negative impact on the private sector. During the reform years, businesses in the private sector struggled to compete with PNGOs, which received large sums of external financing. In an atypical situation, PNGOs paid educated Palestinians salaries four to five times higher than what the local private sector typically paid.³⁹⁹

In May 2011, Khaled Al Sabawi, President and Founder of Middle East North Africa (MENA) Geothermal argued that the growing number of PNGOs made it difficult for Palestinian businesses to recruit professional human capital in the West Bank.⁴⁰⁰ To compete, Palestinian businesses had to offer higher salaries than they would without the large presence of PNGOs, which

³⁹⁸ (Nasir, Al-Muthaffar and Kacem 2012)

³⁹⁹ Al Sabawi, Khaled. "The Palestinian Aid Trap." *The Mark*. May 24, 2011.

<http://www.themarknews.com/articles/5301-the-palestinian-aid-trap> (accessed March 3, 2012).

⁴⁰⁰ (Al Sabawi 2011)

MENA Geothermal specializes in the design and installation of commercial and multi-unit residential geothermal heating and cooling systems throughout the Middle East and North Africa region.

MENA Geothermal. 2012. <http://www.menageothermal.com/> (accessed January 4, 2013).

reduced returns to capital and reduced Palestine's competitiveness in attracting investments. Al Sabawi argues external aid and NGOs are undermining Palestinians' ability to achieve a truly independent state.⁴⁰¹

Public Sector Challenges

In 1994, public sector services output constituted 9 percent of the GDP.⁴⁰² At that time, the PA had not yet been formed. State institutions and the legal framework were extremely underdeveloped. Hence, when the PA was established in 1995, there was an effort by the international community to help Palestinians develop and grow the public sector to fill basic governing functions within the WBGS.

Growth in public sector services grew beyond the necessary capacity, creating inefficiencies and inflating PA expenditures on the PA wage bill and by offering higher paying jobs, created undesirable competition with the private sector. The World Bank reports that the majority of the service sector growth is from public sector activities including healthcare, social services, education, and public administration. While these activities are critical to a country, they are unlikely to lead to long-term sustainable economic growth and must be complimented by a thriving private sector.⁴⁰³

Corruption, a form of rent-seeking, has historically been a problem in Palestine, specifically within the public sector. While corruption remains prevalent in the West Bank, there were serious efforts to curb corruption during the reform years and the dividends of these efforts will likely transpire in coming years. A rent can be defined as income above and beyond the returns that would be available in a purely competitive market free of government intervention. Rents can be dispensed directly by governments to beneficiaries in the form of direct subsidies or they can be created by policy-induced price distortions designed to benefit political clienteles. Private monopolies and

⁴⁰¹ (Al Sabawi 2011)

⁴⁰² (IMF 2011)

⁴⁰³ (The World Bank 2011)

oligopolies also garner rents but these usually are created by government policies. Activities associated with seeking rents are referred to as rent-seeking. University of Kansas Adjunct Professor and former UN and World Bank economist Richard Lynn Ground outlines the impact of rent-seeking and its effects on economic activity and collective welfare in a society. Ground points out that rent-seeking imposes large social costs on society, except by those imposing the rents, and reduces the real income of consumers. Time, work and money spent on seeking rents is not only wasted in a collective or societal sense, but it results in a deadweight loss as it does not produce anything of social value. Further, rent-seeking reduces overall economic activity and welfare, diverting resources away from efficient economic activities to inefficient ones.⁴⁰⁴

In 2011, Transparency International reported that nepotism and using connections to accomplish one's aims were widespread and "the most prevalent form of corruption in the governmental, civic and private sectors." Some examples of this form of corruption include "senior public office appointments, and access to public services such as licenses and permits." These are punishable crimes per a 2010 anti-corruption law. However, the practice is slow to change, with 41 percent of Palestinians indicating they engaged in this behavior for public sector services in 2011.⁴⁰⁵

The PA has recognized that corruption is a problem that must be curbed and has passed legislation to spur the reform process. Building upon a 2005 Illicit Gains Law and a 2007 Anti-Money Laundering Law, the PA passed the Anti-Corruption Law and created an Anti-Corruption Court in 2010. In 2009, the Coalition for Integrity and Accountability (AMAN), a chapter of Transparency International, was established in Ramallah and a chapter was established in Gaza in March 2010. Through AMAN's Advocacy and Legal Advice Center (ALAC), it informs citizens about the concept of corruption, determines levels of corruption in Palestine and guides the public on

⁴⁰⁴ Ground, Richard Lynn/ "Rent-Seeking, Economic Activity & Welfare: Concepts and Real World Examples." KU GIST Working Paper: Prepared for GIST 703 & GIST 750 students, Lawrence, 2011, 1-41.

⁴⁰⁵ Transparency International. "Corruption by Country/Territory: Palestine Overview." *Transparency International*. 2012. <http://www.transparency.org/country#PSE> (accessed December 3, 2012).

what can be done to combat corruption.⁴⁰⁶ In large part due to Transparency International's work in Palestine, in 2010, Palestine's Council of Ministers declared a ban on the use of government vehicles outside office hours, with the exception of the Prime Minister, and 6,200 cars were reclaimed from civil servants who were using the cars for private use.⁴⁰⁷ In April 2010, an investigation by AMAN uncovered cases of unions in the West Bank charging excessive fees for services. Consequently, the Ministry of Labor wrote to all unions to warn them that if any union was found to be engaging in the illegal practice it would face penalties. In 2010, ALAC identified sexual harassment in the workforce as a widespread problem. It organized a workshop on the topic and included many representatives from PA ministries, women's groups, research institutions, and Birzeit University located in the West Bank, through which participants made suggestions to address the problem, including the promulgation of legislation defining and banning sexual harassment.⁴⁰⁸ Further, Transparency International reported that "In 2011, a code of conduct was developed for Palestinian political parties and factions" and in 2010 "The Palestinian Anti-Corruption Commission was established...to hold corrupt individuals to account" and "the commission has the authority to proactively investigate and enforce the law in cooperation with the General Attorney."⁴⁰⁹ These policies have led to many investigations and charges against public officials for corruption.⁴¹⁰

It is evident that during the reform years, the PA, along with Transparency International, has made a pointed effort to identify and reduce corruption. As many of these are recent efforts, corruption remains a persistent challenge for Palestinians and investors. While Palestine is not

⁴⁰⁶ Feiertag, Servaas. "Ramallah: Uncovering illegal fees in workers' unions." *Transparency International Blog*. April 21, 2010. <http://blog.transparency.org/2010/04/21/ramallah-uncovering-illegal-fees-in-workers%E2%80%99-unions/> (accessed June 3, 2012).

Transparency Palestine. *Advocacy and Legal Advice Center-ALAC Annual Report 2010*. Ramallah: Coalition for Accountability and Integrity-AMAN, 2011.

⁴⁰⁷ Riano, Juanita, Finn Heinrich, and Robin Hodess. *Global Corruption Barometer 2010*. Transparency International, 2010.

⁴⁰⁸ (Feiertag 2010)

⁴⁰⁹ (Transparency International 2012)

⁴¹⁰ Ma'an News Agency. "Source: New batch of officials to be charged with corruption." *Ma'an News Agency*. November 7, 2012. <http://www.maannews.net/eng/ViewDetails.aspx?ID=502598> (accessed December 2, 2012).

included in Transparency International’s annual Corruption Perceptions ranking, in 2010, for the first time in Palestine, Transparency International carried out some surveys and included the responses in its annual Corruption Perceptions Index. It should be noted that there is no distinction between corruption in the West Bank and corruption in Gaza. The results are included in Table 22.⁴¹¹

Table 22: Palestinian Responses in Transparency International’s Corruption Perceptions Index, 2010

| Question | Percentage |
|---|-------------------|
| Percentage of people reported paying a bribe in 2010 | 51% |
| Percentage of people who feel their government’s efforts to fight corruption are ineffective | 17% |
| Percentage of people who feel their government’s efforts to fight corruption are neither effective or ineffective | 65% |
| Percentage of people who feel their government’s efforts to fight corruption are effective | 18% |
| Percentage of people who feel that during 2007-2010, their government’s anti-corruption efforts have increased | 22% |
| Percentage of people who feel that during 2007-2010, their government’s anti-corruption efforts have stayed the same | 19% |
| Percentage of people who feel that during 2007-2010, their government’s anti-corruption efforts have decreased | 59% |
| Percentage of users paying a bribe to receive attention from at least one of nine different service providers in the past 12 months | 51% |

Source: (Riano, Heinrich and Hodess 2010)

Within the survey, Transparency International also asked Palestinians what institution they perceived to be most affected by corruption and the response was political parties. By observing the public opinion responses to the questions in Table 22, it is evident that Palestinians experience corruption on a regular basis and perceived the PA’s anti-corruption efforts as being insufficient and ineffective. As Transparency International is new in Palestine and two significant measures by the PA—the Anti-Corruption Law and the Anti-Corruption Court—were developed in 2010, the survey is reflective of corruption up until that point and does not reflect all of the new efforts aimed at reducing corruption. There is a lag between the creation and passing of reforms and their implementation and changes in public perception.

Corruption in Palestine reduces overall economic welfare in the country. In order to capitalize economically on Palestinians’ time, energy and talents, the PA must continue efforts to

⁴¹¹ The face to face poll was carried out by the Palestinian Center for Public Opinion on behalf of Transparency International and included 1,040 individuals.
(Riano, Heinrich and Hodess 2010)

enforce new laws and stem corruption, especially as rents cause a disproportionate welfare loss on those living at or below the poverty line.⁴¹² Rents add negative and unnecessary costs to the Palestinian economy, though no estimates are available to the amount of these costs.

Employment, Unemployment, and Education

The PA collects data on Palestinians employed in the private sector, the public sector, and in Israel and the settlements. Table 23 depicts Palestinian participation and wages in these sectors.

Table 23: Percentage Distribution of Employed Person and Average Daily Wage in NIS for Wage Employees in the WBGs by Sector and Region 2000-2010

| Sector and Region | 2010 | 2009 | 2008 | 2007 | 2006 | 2005 | 2004 | 2003 | 2002 | 2001 | 2000 |
|--|--------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Percentage Distribution of Employed Persons By Sector | | | | | | | | | | | |
| Palestinian Territory | | | | | | | | | | | |
| Public Sector | 24.0 | 25.2 | 24.2 | 22.7 | 23.2 | 22.5 | 22.1 | 20.5 | 23.3 | 22.9 | 19.3 |
| Private Sector | 65.5 | 64.6 | 65.7 | 68.4 | 68.2 | 68.2 | 69.8 | 70.8 | 67.4 | 64.6 | 61.9 |
| Israel & Settlements | 10.5 | 10.2 | 10.1 | 8.9 | 8.6 | 9.3 | 8.1 | 8.7 | 9.3 | 12.5 | 18.8 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| West Bank | | | | | | | | | | | |
| Public Sector | 16.2 | 17.0 | 16.0 | 16.0 | 16.5 | 16.2 | 16.3 | 15.9 | 18.0 | 16.2 | 14.2 |
| Private Sector | 69.6 | 69.1 | 70.2 | 71.5 | 71.7 | 70.9 | 73.0 | 72.9 | 70.0 | 67.4 | 64.4 |
| Israel & Settlements | 14.2 | 13.9 | 13.8 | 12.5 | 11.8 | 12.9 | 10.7 | 11.2 | 12.0 | 16.4 | 21.4 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| Gaza Strip | | | | | | | | | | | |
| Public Sector | 46.1 | 48.1 | 46.8 | 39.0 | 41.6 | 37.9 | 37.1 | 30.6 | 36.7 | 41.4 | 31.5 |
| Private Sector | 53.9 | 51.9 | 53.2 | 61.0 | 58.4 | 61.7 | 61.8 | 66.3 | 60.8 | 56.7 | 55.8 |
| Israel & Settlements | - | - | - | - | - | 0.4 | 1.1 | 3.1 | 2.5 | 1.9 | 12.7 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| Average Daily Wage in NIS for Wage Employees | | | | | | | | | | | |
| Palestinian Territory | | | | | | | | | | | |
| Public Sector | 85.2 | 84.4 | 79.2 | 79.3 | 78.5 | 70.4 | 66.2 | 61.4 | 59.6 | 59.3 | 59.0 |
| Private Sector | 74.3 | 77.0 | 74.7 | 69.0 | 69.7 | 67.4 | 67.3 | 66.9 | 69.6 | 67.9 | 66.8 |
| Israel & Settlements | 158.0 | 148.1 | 138.3 | 130.0 | 129.8 | 125.6 | 125.3 | 122.8 | 116.0 | 106.5 | 110.5 |
| Total | 91.7 | 91.3 | 87.0 | 81.9 | 81.5 | 77.0 | 73.8 | 72.2 | 72.6 | 71.9 | 76.6 |
| West Bank | | | | | | | | | | | |
| Public Sector | 90.5 | 90.2 | 83.0 | 81.6 | 77.5 | 71.5 | 69.3 | 64.1 | 62.3 | 62.8 | 62.9 |
| Private Sector | 83.6 | 83.6 | 81.1 | 74.8 | 76.0 | 74.1 | 74.1 | 76.9 | 76.5 | 73.1 | 73.7 |
| Israel & Settlements | 158.0 | 148.1 | 138.3 | 130.1 | 129.6 | 125.4 | 125.5 | 125.0 | 117.7 | 108.2 | 108.6 |
| Total | 102.0 | 99.3 | 94.1 | 88.4 | 87.5 | 84.4 | 81.6 | 81.8 | 80.9 | 79.3 | 82.8 |
| Gaza Strip | | | | | | | | | | | |
| Public Sector | 74.0 | 72.3 | 71.7 | 76.2 | 79.4 | 69.4 | 63.1 | 58.5 | 56.9 | 55.7 | 55.2 |
| Private Sector | 48.7 | 55.0 | 50.6 | 52.6 | 52.9 | 51.9 | 51.6 | 47.6 | 52.0 | 51.6 | 49.2 |
| Israel & Settlements | - | - | - | - | - | - | 122.2 | 106.6 | 97.2 | 63.2 | 117.2 |
| Total | 58.2 | 62.7 | 60.9 | 65.1 | 69.1 | 62.3 | 59.2 | 55.7 | 56.6 | 54.4 | 64.1 |

Source: (Palestinian Central Bureau of Statistics 2011)

⁴¹² (Ground 2011)

Table 23 shows that employment in the public sector, private sector, and Israel and the settlements follow different trends for the West Bank and Gaza Strip. In the West Bank, the private sector consistently provided more than four times more jobs than the public sector during 2000 to 2010, whereas in the Gaza Strip, the private sector has historically only provided slightly more jobs than the public sector, though in 2003 private sector employment peaked, providing more than two times more jobs than the public sector. Further, West Bank Palestinians work in Israel and the settlements while Gazans have not since 2005. Palestinian employment in Israel and the settlements was highest in 2000 and fell dramatically during the Second Intifada. In the West Bank, employment in Israel and the settlements recovered to 10 percent of the working population by 2011, though it was still far less than in 2000, when 18.8 percent of the population worked in Israel and the settlements. Wages in Israel and the settlements were much higher than wages in the public or private sector in Palestine, at a rate nearly double what a typical employee would earn in the private sector in the West Bank in 2010. Public sector work paid more than the private sector in the WBGS and wages in the public sector grew at a faster rate than the private sector in the West Bank during the reform years, depressing the development of the private sector. In 2010, public sector wages were slightly higher than the private sector in the West Bank, while public sector wages in the Gaza Strip were about one and a half times the wages in the private sector.

Table 23 provides a framework of what employees earn in various sectors of the economy. In 2010, a Palestinian who worked in construction earned on average two times the wages of a person who worked in agriculture. All other employment paid on average somewhere between agriculture and construction.⁴¹³

Table 24 provides the percentage distribution of employed persons in the West Bank and Gaza Strip by economic activity during 1995 to 2010. Notably, this table does not distinguish private sector from the public sector.

⁴¹³ (Palestinian Central Bureau of Statistics 2011)

Table 24: Percentage Distribution of Employed Persons in the West Bank and Gaza Strip by Economic Activity, 1995-2010

| Year | Agriculture, Hunting & Fishing | Mining, Quarrying & Manufacturing | Construction | Commerce, Hotels and Restaurants | Transportation, Storage & Communication | Services & Other Branches | Total |
|------|--------------------------------|-----------------------------------|--------------|----------------------------------|---|---------------------------|-------|
| '95 | 12.7 | 18.0 | 19.2 | 19.6 | 4.9 | 25.6 | 100 |
| '96 | 14.2 | 16.8 | 16.8 | 18.2 | 4.8 | 29.2 | 100 |
| '97 | 13.1 | 16.4 | 18.4 | 19.1 | 4.8 | 28.2 | 100 |
| '98 | 12.1 | 15.9 | 22.0 | 18.2 | 4.7 | 27.0 | 100 |
| '99 | 12.6 | 15.5 | 22.1 | 17.0 | 4.7 | 28.1 | 100 |
| '00 | 14.1 | 14.2 | 19.4 | 17.3 | 4.9 | 30.1 | 100 |
| '01 | 12.2 | 13.8 | 14.2 | 19.5 | 5.5 | 34.8 | 100 |
| '02 | 15.3 | 12.7 | 10.7 | 19.8 | 5.5 | 36.0 | 100 |
| '03 | 16.2 | 12.5 | 12.9 | 19.9 | 5.7 | 32.8 | 100 |
| '04 | 16.4 | 12.6 | 11.5 | 19.4 | 5.3 | 34.8 | 100 |
| '05 | 15.0 | 12.9 | 12.8 | 19.2 | 5.6 | 34.5 | 100 |
| '06 | 16.7 | 12.3 | 11.0 | 19.0 | 5.6 | 35.4 | 100 |
| '07 | 16.1 | 12.5 | 10.9 | 19.4 | 5.5 | 35.6 | 100 |
| '08 | 14.1 | 12.3 | 10.7 | 19.8 | 4.9 | 38.2 | 100 |
| '09 | 11.8 | 12.1 | 11.7 | 19.1 | 5.7 | 39.6 | 100 |
| '10 | 11.8 | 11.4 | 13.2 | 19.3 | 6.0 | 38.3 | 100 |

Source: (Palestinian Central Bureau of Statistics 2011)

A brief analysis of Table 24 above shows that services by far employ the largest segment of the Palestinian population. In 2010, 38.3 percent of the workforce was employed in the services sector, while employment in commerce, hotels and restaurants was the second highest at 19.3 percent. During the reform years, beginning in 2009, employment fell in agriculture. Employment rose in transportation, storage, and communication, and in construction. Employment in services; commerce, hotels and restaurants; and mining, quarrying, and manufacturing mostly stayed the same.

The number of settlements and the number of Palestinians from the West Bank who work in Israel and the settlements has been rebounding. In 2010, the settler population growth rate in the West Bank was 4.9 percent, while the growth rate of the general population in Israel was 1.9 percent.⁴¹⁴ Israeli settlement construction in the West Bank grew by 20 percent during 2010 to 2011,

⁴¹⁴ B'Tselem. "Settlements & Land: Land Expropriation and Settlement Statistics." *B'Tselem*. July 8, 2012. <http://www.btselem.org/settlements/statistics> (accessed December 4, 2012).

which contributed to a doubling of the number of Palestinians displaced by demolitions of Palestinian property near the settlements.⁴¹⁵ Earlier, Table 14 showed that the proportion of Palestinians working in Israel and the settlements fell from 16.2 percent in 1995 to 8.0 percent in 2004 and then rebounded slightly to 10.0 percent in 2011. As Table 23 indicated, Palestinians earn much higher wages in Israel and the settlements than they do in Palestine, so the trends of increased employment there have contributed to a rising living standard for Palestinians in recent years.

The PA has indicated that as Palestinians help Israel build settlements on West Bank land, Palestinians' chances for an independent and recognized Palestinian state on that same land diminishes. In the midst of the reform years, in April 2010, the PA placed a ban on employment of Palestinians in the Israeli settlements.⁴¹⁶

Indeed, employment within Israel and in the settlements is riddled with risks and Palestinians should reduce their high dependence on these jobs. The availability of work in Israel and the settlements is ever changing and the ability of Palestinians to get work permits to work in Israel is uncertain. In the event of a peace deal with Palestinians, Israel may remove some or all of its settlements. Despite these risks, jobs in Israel and the settlements are highly sought after, as there is a shortage of jobs in the West Bank and employment in Israel or in the settlements provide double the wages of the Palestinian public sector, which in turn are slightly higher than in the private sector, which can be observed in Table 23.

With the passing of the ban on Palestinian employment in the Israeli settlements in the West Bank in 2010, the PA envisioned an incremental reduction in employment in the settlements until there was no more by the end of 2011. While the PA acknowledged that Palestinians and the

⁴¹⁵ Oxfam International. "Palestinian communities under threat in the Jordan Valley as settlement expansion and demolitions escalate." *Oxfam International*. July 5, 2012.
<http://www.oxfam.org/en/grow/pressroom/pressrelease/2012-07-05/palestinian-communities-threat-jordan-valley-settlement-expansion-demolitions> (accessed December 3, 2012).

⁴¹⁶ Shabi, Rachel. "Palestinians Defy Ban on Jewish settlement work." *The Guardian*. May 25, 2010.
<http://www.guardian.co.uk/world/2010/may/25/palestine-israel-settlements-work-ban> (accessed December 5, 2012).
Hubbard, Ben. "Despite ban, Palestinians build the settlements." *Arab News*. Associated Press. November 10, 2010.
<http://www.arabnews.com/node/360194> (accessed December 5, 2012).

Palestinian economy were dependent on those jobs, it hoped the ban would curb that dependence, despite already high rates of unemployment in the West Bank. In addition to passing the ban on employment in the settlements with threats of punishment for violating the ban, including up to five years in jail and steep fines, the PA unsuccessfully tried to entice international donors to contribute to an investment fund to create employment opportunities in the West Bank so that it could subsidize employment in the private sector.⁴¹⁷

It turned out that no amount of national pride and fear of punishment could stop Palestinians from working in the settlements and the PA did not follow through with punishing Palestinians who violated the employment ban. In fact, a significant and growing portion of Palestinians travelled to work in Israel or in the settlements, either legally with permits or illegally without work permits during the reform years as that employment has constituted a crucial income source for West Bank Palestinians as there was no alternative employment.⁴¹⁸

The high rate of unemployment has a serious impact on Palestinians' everyday lives. While the earlier Figure 3 shows a graphical representation of unemployment trends and projections in the WBGS along with historical events that may have influenced unemployment rates, Table 25 provides unemployment data specific to the West Bank during 1995 to 2010.

⁴¹⁷ (Shabi 2010)
(Hubbard 2010)

⁴¹⁸ (Shabi 2010)

Table 25: Percentage Distribution of Unemployed Population in the West Bank, 1995-2011

| Year | Unemployed in Thousands, 15 Years and Above | Unemployment Percent, 15 Years and Above | Unemployment Percent, 15 – 24 years |
|-------------|--|---|--|
| 1995 | 50 | 13.9 | -- |
| 1996 | 77 | 19.6 | 26.8 |
| 1997 | 74 | 17.3 | 24.5 |
| 1998 | 52 | 11.5 | 17.9 |
| 1999 | 44 | 9.5 | 13.6 |
| 2000 | 56 | 12.2 | 16.7 |
| 2001 | 97 | 21.6 | 31.8 |
| 2002 | 127 | 28.2 | 40.3 |
| 2003 | 116 | 23.7 | 36.1 |
| 2004 | 117 | 22.8 | 35.3 |
| 2005 | 110 | 20.4 | 32.0 |
| 2006 | 108 | 18.8 | 28.5 |
| 2007 | 107 | 17.9 | 28.5 |
| 2008 | 120 | 19.7 | 30.9 |
| 2009 | 114 | 17.8 | 29.5 |
| 2010 | 114 | 17.2 | 28.2 |
| 2011 | 124 | 17.3 | 28.8 |

Source: (Palestinian Central Bureau of Statistics 2012)

Table 25 reveals that between 1995 and 2011, the lowest unemployment rate in the West Bank was during the eve of the Second Intifada. In 1999, the West Bank unemployment rate was 9.5 percent. With the onset of the Intifada, the unemployment rate rose sharply to 28.2 percent by 2002. The unemployment rate has since fallen, yet remains high at 17.3 percent in 2011.⁴¹⁹ The improved unemployment rate in the West Bank correlates with the lack of widespread conflict in the West Bank, a growing Palestinian economy, increased investment and jobs, and the recent increase in employment of Palestinians in Israel and the settlements.

The current rate of unemployment is much higher than what Palestinians experienced in the mid to late 1990s, and far higher than earlier periods. The PA and GoI can further reduce unemployment within the West Bank in the short term on relaxing the number of individuals allowed

⁴¹⁹ (Palestinian Central Bureau of Statistics 2011)

to work in Israel and the settlements and can reduce unemployment within the West Bank in the long-term by taking measures to stimulate private sector development and employment.

Unemployment amongst Palestinian youth, categorized as individuals aged 15-24, has traditionally been much higher than the overall unemployment rate in the West Bank. The youth unemployment rate fell slightly during the reform years. In 2008, the youth unemployment rate was 30.9, falling slightly to 29.5 percent in 2009, falling slightly to 28.2 percent in 2010 and rising slightly to 28.8 percent in 2011. While the youth unemployment rate made moderate progress, it remains a problem.

Palestine enjoys a high literacy rate and widespread advanced English language comprehension, seemingly making Palestinians well suited employees for local and international businesses in Palestine.⁴²⁰ Basic education, defined as ten years of schooling, is compulsory and free.⁴²¹ According to UNICEF, in the WBGS in 2010, the literacy rate for males and females ages 15-24 was 99 percent.⁴²² The PA's Ministry of Education and Higher Education (MOEHE) is responsible for all levels of educational development in Palestine and supervises public, private, and UMRWA schools.⁴²³

Table 26 shows the number and type of schools by region and gender.

⁴²⁰ (The World Bank 2011)

(Palestinian Central Bureau of Statistics 2011)

⁴²¹ UNESCO and IBE. World Data on Education: 7th Ed. 2010/11. United Nations Educational Scientific and Cultural organization (UNESCO) and The International Bureau of Education (IBE), 2011.

⁴²² UNICEF. At a Glance: State of Palestine Statistics. *UNICEF*.

http://www.unicef.org/infobycountry/oPt_statistics.html#90 (accessed December 2, 2012).

⁴²³ (UNESCO and IBE 2011)

Table 26: Number of Schools by Region, Supervising Authority and School Gender, 2010/2011

| Region | Supervising Authority | School Gender | | | |
|-----------------------|-----------------------|---------------|-------|---------|-------|
| | | Total | Males | Females | Co-ed |
| Palestinian Territory | Total | 2,652 | 966 | 899 | 787 |
| | Government | 1,972 | 788 | 772 | 412 |
| | UNRWA | 336 | 142 | 98 | 96 |
| | Private | 344 | 36 | 29 | 279 |
| West Bank | Total | 1,975 | 668 | 671 | 636 |
| | Government | 1,573 | 604 | 599 | 370 |
| | UNRWA | 98 | 35 | 49 | 14 |
| | Private | 304 | 29 | 23 | 252 |
| Gaza Strip | Total | 677 | 298 | 228 | 151 |
| | Government | 399 | 184 | 173 | 42 |
| | UNRWA | 238 | 107 | 49 | 82 |
| | Private | 40 | 7 | 6 | 27 |

Source: Palestinian Central Bureau of Statistics. "Number of Schools by Region, Supervising Authority and School Gender, 2010/2011." Palestinian Central Bureau of Statistics. 2012. http://82.213.38.42/Portals/_pcbs/educatio/edua05.htm (accessed December 6, 2012).

In 2011, public schools constituted 74 percent of all schools, while private schools and UNRWA schools each made up approximately 15 percent of schools in the West Bank. There was a higher proportion of private schools in the West Bank and a higher proportion of UNRWA schools in the Gaza Strip. In the West Bank, public schools made up 80 percent of all schools, UNRWA schools made up five percent of all schools, and private schools made up 19 percent of schools. Among higher education institutions, 18 were public, 14 were private, 13 were governmental, and three were UNRWA.⁴²⁴ The presence of private schools in the WBGS promotes competition among schools.

⁴²⁴ PA Ministry of Higher Education. *Palestinian Higher Education Statistics: 2010/2011*. Palestinian National Authority (PA) Ministry of Higher Education, 2011.

Despite high levels of literacy in Palestine, businesses have indicated that Palestinian graduates lack critical thinking and problem-solving skills along with technology skills needed in the workforce. Further, as mentioned earlier, despite a pool of literate, bilingual young people, youth, individuals defined as between the ages 15 to 29, have a disproportionally higher unemployment rate. The World Bank suggests educational reform to include hands-on learning experiences and inquiry-based exercises so that young people are better prepared and qualified for employment.⁴²⁵

The PA has responded to reports of shortcomings in its education system and beginning in 2008, it began implementing an education sector reform plan to improve the quality of education and relevance of graduates' skills. It has been investing in quality improvement in curriculum to "promote and secure development of skills relevant to labor market needs among Palestinian students."⁴²⁶ It will likely be many years for the efforts to make a significant impact in the Palestinian workforce and economy. The PA, the UNRWA, and private schools must continue to invest in education and improve curriculum so that graduates have skills needed for a thriving Palestinian workforce.

The World Bank has taken an active role in identifying areas of weakness in the Palestinian education system and has launched initiatives to improve the quality of education in Palestine. The World Bank's Quality Improvement Fund provided financing for a Palestinian tertiary education project that began in 2009 and lasted through December 31, 2012. As of September 2011, the fund had distributed US\$11 million, aimed at helping colleges and universities, "to further strengthen the quality, relevance, and international competitiveness of tertiary institutions."⁴²⁷ The World Bank called on businesses to take on a more active role in identifying the skills it needs in its workforce and then working with universities and technical schools to incorporate training for these skills in the

⁴²⁵ (The World Bank 2011)
(Palestinian Central Bureau of Statistics 2011)

⁴²⁶ (The World Bank 2011)

⁴²⁷ The World Bank. *West Bank and Gaza Institutional Capacity: July 2011*. The World Bank, 2011.

classroom and out of classroom. Schools and universities can also facilitate this by creating apprenticeship and internship programs to better prepare individuals with the practical skills they need to make them desirable candidates for employment.⁴²⁸

PNGOs also provide educational services in Palestine, often using volunteers and interns to expand their reach in a particular community. One such example is Tomorrow's Youth Organization, a non-profit organization in the West Bank city of Nablus with an affiliate in the US, which among other things, assists women, many from refugee camps; and finds ways to transfer the skills they have into small businesses or help them get training in new skills to expand their employment options.⁴²⁹

Investment and job creation in the West Bank should continue to be a priority, as a growing economy and declining unemployment rate translates into growth and stability for Israel and Palestine.

Doing Business in the West Bank: Policies and Performance

The West Bank has the undesirable distinction of being a fragmented portion of an occupied Palestinian state that recently emerged from violent conflict with Israel. Its governing body is relatively new and only has partial authority over the territory. Palestinians or others considering engaging in business in the West Bank must determine if the West Bank will be a safe and profitable place to do business. While violence in the West Bank since the Second Intifada has largely been limited to small groups of people clashing over ideological and political differences and has not targeted local or foreign business owners, some individuals perceive all of Palestine a conflict-ridden country based on its violent past. It is therefore important to assess the business environment in the

⁴²⁸ (The World Bank 2011)

⁴²⁹ Tomorrow's Youth Organization. "Locations: Nablus." *Tomorrow's Youth Organization*. 2013. <http://www.tomorrowseyouth.org/locations/nablus/> (accessed January 4, 2013).

West Bank, identify threats and constraints to businesses operating in the West Bank, and the effectiveness of recent initiatives aimed at strengthening the business environment.

The World Bank carries out an analysis of the ease of doing business for small and medium-sized companies by measuring business regulations and the protection of property rights and their effect on businesses across 183 economies through its annual *Doing Business* project. The resulting annual *Doing Business* report ranks the economies according to indicators that measure the ease or difficulty of doing business. Within an analysis of the business environment in the West Bank and Gaza Strip, the *Doing Business* indicators will be referenced, though there are many limitations to the data.⁴³⁰ Table 27 includes *Doing Business* indicators for countries in the Middle East Region in 2012, along with *Doing Business* indicators for the WBGS in 2011.

Table 27: Middle East Region Doing Business Indicators, 2011-2012

| TOPIC RANKINGS | WBGS DB 2011 Rank | WBGS DB 2012 Rank | Israel DB 2012 Rank | Egypt DB 2012 Rank | Jordan DB 2012 Rank | Syria DB 2012 Rank | Turkey DB 2012 Rank | Lebanon DB 2012 Rank |
|--------------------------------------|----------------------------------|----------------------------------|--|---------------------------------------|--|---------------------------------------|--|---|
| Overall Ranking | 128 | 131 | 34 | 110 | 96 | 134 | 71 | 104 |
| GNI Per Capita (US \$) | -- | | 27,340 | 2,340 | 4,350 | 2,640 | 9,500 | 9,020 |
| Starting a Business | 173 | 177 | 43 | 21 | 95 | 129 | 61 | 109 |
| Dealing with Construction Permits | 123 | 129 | 137 | 154 | 93 | 133 | 155 | 161 |
| Getting Electricity | 85 | 85 | 93 | 101 | 36 | 83 | 72 | 47 |
| Registering Property | 78 | 78 | 147 | 93 | 101 | 82 | 44 | 105 |
| Getting Credit | 152 | 166 | 8 | 78 | 150 | 174 | 78 | 78 |
| Protecting Investors | 44 | 46 | 5 | 79 | 122 | 111 | 65 | 97 |
| Paying Taxes | 37 | 39 | 59 | 145 | 21 | 111 | 79 | 30 |
| Trading Across Borders | 114 | 114 | 10 | 64 | 58 | 122 | 80 | 93 |
| Enforcing Contracts | 93 | 93 | 94 | 147 | 130 | 175 | 51 | 120 |
| Resolving Insolvency | 183 | 183 | 45 | 137 | 104 | 120 | 120 | 125 |

Source: The World Bank. "The Ease of Doing Business in West Bank and Gaza." The World Bank. 2012. <http://www.doingbusiness.org/data/exploreeconomies/west-bank-and-gaza> (accessed December 2, 2012).

⁴³⁰ The World Bank. *Doing Business*. 2013. <http://www.doingbusiness.org/> (accessed January 3, 2013). While the World Bank's *Doing Business* project began in 2002 and the World Bank collected some data on doing business in the WBGS beginning in 2004, the World Bank only began providing rankings for the West Bank and Gaza Strip in 2011, so a long-term observation of *Doing Business* ranking trends in the WBGS is impossible. The *Doing Business* regulations are relevant to businesses in Ramallah, the largest business city in the West Bank. Further, the regulations are specific to a private limited liability company.

Based on *Doing Business* rankings in Table 27, regionally, the best working environment for a small and medium sized-business is Israel, with Turkey and Jordan, and Lebanon, Egypt, the WBGS, and Syria trailing, in order. The overall WBGS *Doing Business* rank in 2012 was 131 out of 183 economies, which was lower by three from 2011. With a ranking of 134, Syria was the only country in the region with a worse *Doing Business* ranking than the WBGS.

The World Bank's analysis in the WBGS shows that some business regulations rank well and others rank mediocre or poorly compared to other economies. The WBGS overall ranking was poor, though it received strong rankings and surpassed regional ratings in a couple of areas. The WBGS received strong rankings for collecting taxes and protecting investors. Namely, out of 183 economies, the WBGS ranked 39 for collecting taxes and 46 for protecting investors in 2012. The WBGS received its poorest ratings with regards to getting credit, starting a business, and resolving insolvency, ranking at 166, 177 and 183 in 2012, respectively. Notably, resolving insolvency is a significant regional problem, as all countries in the region scored poorly except for Israel. There is simply no practice with regards to resolving insolvency in the WBGS, so this is an area that should immediately be addressed by developing procedures to resolve insolvency, which will result in an immediate improvement in the business environment and *Doing Business* ranking. With regards to starting a business, Israel, Egypt and Turkey rank relatively well, though otherwise it is a regional challenge. Table 28 provides information about *Doing Business* indicators relating to time and cost to comply with government regulations in Palestine that provide insight into how the WBGS was ranked in 2012 while Table 29 tracks *Doing Business* indicators related to starting a business in the WBGS during 2004 to 2012.

Table 28: The World Bank Doing Business Country Tables, Palestine, 2012

| | | | |
|---|---------|--|-------------|
| Starting a business (rank) | 177 | Trading across borders (rank) | 114 |
| Procedures (number) | 11 | Documents to export (number) | 6 |
| Time (days) | 49 | Time to export (days) | 23 |
| Cost (% of income per capita) | 96.0 | Cost to export (US\$ per container) | 1,310 |
| Minimum capital (% of income per capita) | 218.8 | Documents to import (number) | 6 |
| | | Time to import (days) | 40 |
| Dealing with construction permits (rank) | 129 | Cost to import (US\$ per container) | 1,295 |
| Procedures (number) | 18 | | |
| Time (days) | 119 | Enforcing contracts (rank) | 93 |
| Cost (% of income per capita) | 1,000.5 | Procedures (number) | 44 |
| | | Time (days) | 540 |
| Getting electricity (rank) | 85 | Cost (% of claim) | 21.2 |
| Procedures (number) | 5 | | |
| Time (days) | 63 | Protecting investors (rank) | 46 |
| Cost (% of income per capita) | 1,627.8 | Extent of disclosure index (0-10) | 6 |
| Registering property (rank) | 78 | Extent of director liability index (0-10) | 5 |
| Procedures (number) | 7 | Ease of shareholder suits index (0-10) | 7 |
| Time (days) | 47 | Strength of investor protection index (0-10) | 6.0 |
| Cost (% of property value) | 0.8 | | |
| Getting credit (rank) | 166 | Paying taxes (rank) | 39 |
| Strength of legal rights index (0-10) | 1 | Payments (number per year) | 27 |
| Depth of credit information index (0-6) | 3 | Time (hours per year) | 154 |
| Public registry coverage (% of adults) | 5.5 | Total tax rate (% of profit) | 16.8 |
| Private bureau coverage (% of adults) | 0.0 | Resolving insolvency (rank) | 183 |
| | | Time (years) | NO PRACTICE |
| | | Cost (% of estate) | NO PRACTICE |
| | | Recovery rate (cents on the dollar) | 0.0 |

Source: (The World Bank 2012)

The World Bank. *Doing Business 2012: Country Tables*. The World Bank, 2012.

Table 29: The Ease/Difficulty of Starting a Business in the WBS, 2004-2012

| Indicator | DB2004 | DB2005 | DB2006 | DB2007 | DB2008 | DB2009 | DB2010 | DB2011 | DB2012 |
|--|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Rank | .. | .. | .. | .. | .. | .. | .. | 173 | 177 |
| Procedures (number) | 12 | 12 | 12 | 12 | 12 | 11 | 11 | 11 | 11 |
| Time (days) | 106 | 106 | 93 | 93 | 92 | 49 | 49 | 49 | 49 |
| Cost (% of income per capita) | 94.3 | 81.7 | 82.7 | 108.7 | 96.6 | 69.1 | 55.0 | 93.7 | 96.0 |
| Paid-in Min. Capital (% of income per capita) | 63.6 | 63.0 | 56.4 | 75.6 | 63.0 | 56.1 | 210.0 | 215.6 | 218.8 |

Source: The World Bank. *Doing Business: Economy Profile West Bank and Gaza*. The World Bank, 2012.

DB2012 rankings reflect changes to the methodology.

The WBGS does moderately well with regards to getting electricity, registering property and enforcing contracts, as it is ranked roughly midway amongst other economies regionally, though Table 28 shows that the cost to get electricity remains prohibitively high at 1,627.8 percent of income per capita. In the WBGS, it takes a significant amount of time and money to get a construction permit, at approximately 119 days and at a cost of 1,000.5 percent of income per capita.

While the WBGS has the best environment in the Middle East to register property, aside from Turkey, it is ranked as the worst place in the region for trading across borders, aside from Syria, with costs and time to import and export high. Trade will be discussed in further detail later in this thesis.

Table 29 shows that the paid-in minimum capital required in 2012 was prohibitively high, at 218.8 percent of income per capita, up from 56.1 percent of income per capita in 2009. With the exception of Israel, getting credit is either a moderate or significant challenge regionally. This is one of the more challenging areas to improve in the WBGS as it is dependent on a rise in income per capita, which would provide Palestinians with the capital and collateral needed to obtain credit. There are initiatives underway to provide Palestinians with access to credit, as mentioned earlier. Lack of access to credit negatively impacts other *Doing Business* indicators. For example, if businesses had greater access to credit, they would have the funds to start a business, get electricity and have funds for construction permits, areas in which the WBGS ranks poorly.

Costs for doing business in the WBGS, such as capital requirements for starting a business are prohibitively high and must be reduced. Table 27 shows that the most dramatic difference in Gross National Income per capita in the region is between the WBGS at US\$1,523 and Israel at US\$27,340 in 2011. Costs are particularly prohibitive to small and medium-sized local businesses, while larger businesses typically have more collateral and greater access to capital.

The WBGS can make an immediate impact on improving *Doing Business* indicators such as enforcing contracts and resolving insolvency. With regard to enforcing contracts, the primary factor that should be addressed and improved is to dramatically reduce length of time and cost it takes the

court to process the claim. In 2007, a World Bank Investment Climate Assessment in the West Bank showed that entrepreneurs and business owners identified courts as a major impediment to doing business.⁴³¹ Since then, the PA reduced the average court processing time from 700 days in 2009 to an average of 540 days in 2012.⁴³²

The World Bank identified strengths and weaknesses of PA policies with regards to doing business. In a September 2011 report, the World Bank credited the PA with taking some steps towards creating a welcoming investment climate characterized by lower corruption, low taxes and good investor protection mechanisms. During the reform years, these steps were evidenced by the creation of the Anti-Corruption Court and subsequent charges brought to officials, public opinion polls that showed perceived lower levels of corruption, and strong Doing Business rankings for the WBGS with regards to paying taxes and protecting investors.⁴³³ Furthermore, improvements in security in the West Bank, more efficient service delivery as evidenced by the “establishment of the authority of the MoF to supervise public finances, and the building of systems and staff capacities to do so” and a loosening in Israeli security restrictions have improved investor confidence.⁴³⁴

Figure 7 displays public and private investment as a share of GDP and real GDP growth. Both private and public investment has fluctuated widely from 1995 to 2011.

⁴³¹ (The World Bank 2011)

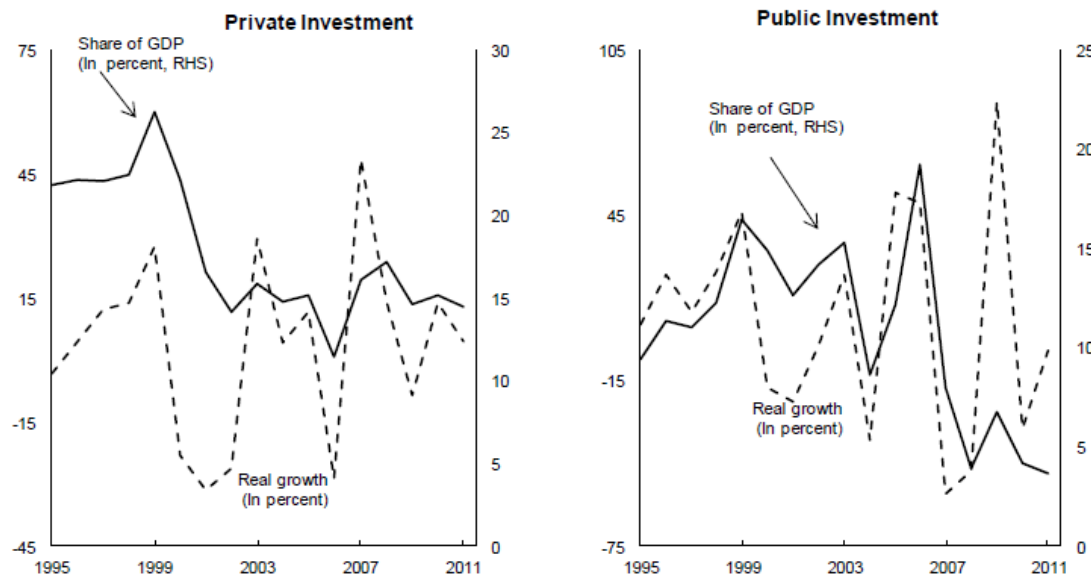
⁴³² (The World Bank 2012)

⁴³³ (The World Bank 2011)

(The World Bank 2012)

⁴³⁴ (The World Bank 2011)

Figure 7: Private and Public Investment in the WBGS



Source: Palestine Central Bureau of Statistics and staff estimates.
(IMF 2012)

The World Bank's *Doing Business* assessment identified actions by the PA that had positive or negative effects on doing businesses in the WBGS, which are listed in Table 30.

Table 30: Business Reforms in the WBGS, 2008-2011

| Year | Positive | Negative |
|------|---|---|
| 2008 | The VAT rate decreased from 16% to 14.5% and corporate income tax rate from 16% to 15%. | |
| 2008 | The public credit registry lowered the minimum loan requirement from US\$10,000 to 0, and instructed all the banks to disclose all loans granted to customers without minimum requirements; coverage has tripled. | |
| 2009 | The Central Bank has set up an online system for lenders to access credit information. | Fees related to construction permitting increased total cost by almost 20%. |
| 2009 | The info.management system at the commercial registry became fully operational, cutting time to start a business. | |
| 2010 | New judges were recruited, appointed, and trained. Courts now have enforcement judges and computerized case management software. ⁴³⁵ | Starting a business became more costly because of an increase in the minimum capital requirement. |
| 2010 | Property registration was expedited through a major project to computerize records at the land registry. | |
| 2011 | More efficient processes at customs made trading easier in the West Bank. | West Bank and Gaza increased the lawyers' fees for incorporation. |

Source: (The World Bank 2013)

⁴³⁵ The World Bank reports: "All courts are currently automated, and modern case management software (Mizan I and Mizan II) is currently utilized."
(The World Bank 2011)

Table 30 shows that the World Bank identified both positive and negative business reforms led by the PA in the WBGS during 2008 to 2011, with more positive reforms overall.

While the World Bank's *Doing Business* assessment is a helpful tool to gauge the working environment in various economies, there are significant limitations to the World Bank's assessment of doing business in the WBGS. For example: the World Bank's prognosis of doing business in the WBGS does not provide a completely accurate picture of what doing business is like in the WBGS as it does not account for: (i) doing business in the smaller cities in the West Bank and the Gaza Strip aside from the business capital of the West Bank, Ramallah; (ii) different business policies in those cities; (iii) the vast amount of incentives, often temporary, provided to small and medium sized businesses by outside sources; (iv) regulations for companies other than private limited liability companies, and (v) implications of the Israeli occupation on doing business in Palestine.

Certainly, there are many challenges to doing business in the West Bank. It is important to review what needs to be improved, in particular by the PA and the GoI in order to improve the business environment in the WBGS. The World Bank argues that sustainable economic growth in the WBGS "requires that the Palestinian Authority improve the business environment and attract needed investment through such measures as expanding land registration in the West Bank; reforming the current collection of laws governing business; and building its own capacity to regulate the economy and ensure competition."⁴³⁶ PalTrade identified Israeli actions constraining investment in Palestine, stating: "Access to the majority of the territory's land and water (Area C) is severely curtailed; East Jerusalem is beyond reach; the ability of investors to enter into Israel and the West Bank is unpredictable; access and movement restrictions in the West Bank; and non- implementation of Paris Protocol."⁴³⁷ In 2012, 101 Israeli permits governed Palestinian movement in the WBGS and in

⁴³⁶ (The World Bank 2012)

⁴³⁷ PalTrade. *Investment in Palestine: The Reality*. Palestine Trade Center (PalTrade), 2010.

Israel.⁴³⁸ PalTrade notes that investors face a high level of uncertainty in terms of obtaining and renewing entry permits and visas and entering the WBS.⁴³⁹

Domestic policies impact the potential for growth of the Palestinian private sector, though the World Bank argues that Israeli restrictions remain the biggest constraint facing Palestinian private sector growth. In addition to providing security, Israel retains jurisdiction over planning and construction in all of Area C. This control results in a huge hindrance to economic potential, as it hampers the ability of the PA to build schools and other infrastructure; challenges investors who want to establish businesses in the area; and hampers agriculture potential in the area. The World Bank reports that limits on Palestinian access to the fertile lands in the Jordan Valley are “denying Palestinians a potential powerhouse of export-oriented high value-added agriculture.”⁴⁴⁰ Further, most Palestinians are denied access to East Jerusalem that Israel annexed, and has considerable economic potential.

While the PA has made concrete steps towards making doing business easier as outlined above, there is a long list of impediments to doing business in the West Bank, some associated with the occupation and conflict and others are associated with governance and infrastructure. These challenges have been presented throughout this thesis; a few of which include: failures in the judiciary including a lack of adequate laws and an inactive PLC; threats of renewed conflict in the absence of a permanent peace agreement between Israelis and Palestinians; inflated employment and wages in the public and nonprofit sectors, and various restrictions on movement of goods and people and on resources that cause increased labor and transportation costs. Despite these serious challenges

⁴³⁸ (Randles and Alqasis 2012)

⁴³⁹ PalTrade indicates that “potential investors from countries with visa agreements with Israel can expect to be allowed entry to Israel as well as the PNA territory, and those from countries with no such agreements can expect to receive visas upon submission of their application. While this process usually works, it does not always: many times, entry is denied to those whose countries have visa agreements, and visa applications are rejected for others -- and often no reason is given.”

(PalTrade 2010)

⁴⁴⁰ (The World Bank 2012)

to doing business, the PA and other internal and external actors have made strides towards providing a more conducive business environment to attract investment and encourage job creation in Palestine.

At the conclusion of the Second Intifada in 2005, the Middle East Investment Initiative (MEII) was created as a non-profit organization that partnered with public and private organizations to make credit and business financing more available in Palestine in order to stimulate economic activity and to create jobs. Since its creation, this organization has played a significant role in facilitating business in the WBGS. Among its initiatives during the reform years, the MEII administered a loan guarantee program in the WBGS for small and medium-sized businesses; began working to create effective and sustainable risk insurance to address movement of products for Palestinian businesses; and worked with partners to develop the first affordable home mortgage facility for Palestinian families. Through its loan guarantee program, nearly 200 loans exceeding a total of US\$46,000,000 were given out by the end of 2009.⁴⁴¹

The Palestine Investment Fund (PIF) initiated many projects during the reform years.⁴⁴² The PIF owns stakes in companies and manages approximately US\$800 million in assets, and made a profit of approximately US\$60 million in 2009. In addition to providing credit through a credit guarantee program for small and medium size enterprises (SMEs), the PIF provides banks with assistance in reaching target groups and assisted SMEs to prepare work plans. In 2009, the PIF launched a US\$4 billion investment program to last for five years, aiming to stimulate economic growth and create over 100,000 new jobs.⁴⁴³ The trade, service, and industry sectors have benefitted

⁴⁴¹ A few of the organizations involved with or affiliated with MEII include the Overseas Private Investment Corporation, the Aspen Institute, and the Palestine Investment Fund.
“History.” Middle East Investment Initiative. 2013. <http://www.meiinitiative.org/history.asp> (accessed January 4, 2013).

⁴⁴² The creation of the PIF in 2003 was an innovative approach to spurring private sector growth by the PA, which essentially involved the “transfer of assets previously managed by the PA. [The] PIF thereby inherited responsibility for managing assets in a manner that contributed to sustainable economic development, as well as maintaining and growing existing national reserves.”

“About the Palestine Investment Fund” Palestine Investment Fund.
<http://www.pif.ps/index.php?lang=en&page=124402202521> (accessed December 13, 2012).

⁴⁴³ (About the Palestine Investment Fund n.d.)

the most from the PIF's credit guarantee program. Its SME Loan Guarantee Facility facilitated 424 loans totaling US\$76.6 million in 2011 by providing guarantees to banks lending to SMEs.⁴⁴⁴

PIF projects and investments in the industrial sector have been expansive, with more than US\$25 million invested in developing an industrial zone in Nablus to host 850 shops, workshops, and stores.⁴⁴⁵ Another one of the investment initiatives that was launched during the reform years was the PIF's National Affordable Housing Program, in which it aims to invest more than US\$1.5 billion to build 30,000 housing units over a span of 10 years in different parts of Palestine. This project will create an estimated 45,000 direct job opportunities and 25,000 indirect job opportunities.⁴⁴⁶ The PIF has a real estate investment arm, Ammar Group, which manages the PIF's real estate projects. One of the large-scale commercial real estate projects Ammar Group is leading is the development of the Ersal Center in the West Bank city, Al-Bireh. The total investment capital for this project will exceed US\$400 million once it is finished in 2015. Kicked off in 2010 by President Abbas, the Ersal Center will have business and office facilities, commercial and retail space, libraries, restaurants, hotels and apartments.⁴⁴⁷

In terms of more traditional financial investment intermediaries, the Palestinian Securities Exchange, which was established in 1995 to promote investment in Palestinian companies, became a private shareholding company in 2010. It is the first fully automated exchange among Arab Stock Exchanges and is supervised by the Palestinian Capital Market Authority. Currently only stocks are traded and 21 of its 46 listed companies are traded. It has a market capitalization of about US\$2.8 billion across five economic sectors including banking and financial services, insurance, investments,

⁴⁴⁴ Palestine Investment Fund. *Investment News*, November 2011: 1-11.

⁴⁴⁵ (Palestine Investment Fund 2011)

(About the Palestine Investment Fund n.d.)

⁴⁴⁶ Palestine Investment Fund. "The National Affordable Housing Program." *Palestine Investment Fund*. <http://www.pif.ps/index.php?lang=en&page=1245234139362> (accessed December 2, 2012).

⁴⁴⁷ Palestine Investment Fund. "Ersal Center." *Palestine Investment Fund*. <http://www.pif.ps/index.php?lang=en&page=12741738543610> (accessed December 5, 2012).

industry and services. The Palestinian Exchange comes in second regionally with regards to investor protection.⁴⁴⁸

The PA encouraged local and foreign investment in Palestine in 2011 by an amendment to the Law on the Encouragement of Investment in Palestine (1998). Known as the Investment Law, it provides incentives for smaller businesses and the service sector, including tax breaks for investments, and it “allows the Cabinet of Ministers to create new incentives for projects that will bolster job creation or export potential.”⁴⁴⁹ The Law on the Encouragement of Investment fortified via amendment, resulted in the creation and subsequent strengthening of the Palestinian Investment Promotion Agency (PIPA), which is responsible for encouraging and promoting investment in Palestine, specifically through dealing with investors and formulating investment policy.⁴⁵⁰ As directed by the Investment Law, PIPA allows for exemptions and incentives on custom duties and income taxes for enterprises and investors for enterprises engaged in export activities, and for investments in hospitals and hotels. PIPA has about 400 clients, which are mostly medium and large enterprises.⁴⁵¹ PIPA’s services act as a “one-stop shop” where investors can license their projects, acquire permits, obtain incentives, and attain income tax exemptions, among other requirements and enticements for investment in Palestine.⁴⁵²

The largest and potentially most impactful development project currently underway in Palestine is the development of the new West Bank city, Rawabi, the first Palestinian city built in the area since 1967. The city will be located entirely in Area A, so it will be within full jurisdiction of the

⁴⁴⁸ Palestine Exchange. “About Palestine Exchange.” *Palestine Exchange*. <http://www.pex.ps/PSEWebSite/English/Default.aspx> (accessed December 5, 2012).

⁴⁴⁹ (The World Bank 2011)

⁴⁵⁰ PIPA. “About PIPA.” *Palestinian Investment Promotion Agency*. <http://www.pipa.gov.ps/aboutpipa.asp> (accessed November 29, 2012).

⁴⁵¹ UNCTAD Secretariat. *Aftercare Strategy for Investors in the Occupied Palestinian Territory*. United Nations Conference on Trade and Development, New York and Geneva: United Nations Conference on Trade and Development (UNCTAD), 2009.

⁴⁵² (PIPA n.d.)

PA. Palestinian entrepreneur and developer Bashir Masri has taken the leading role in promoting and getting support and approval for the city and his construction company is building the city.

Rawabi will be a high tech suburb with business and commercial districts, parks, shopping malls and a country club. The city will include a privately-owned and operated vocational training center to bridge the gap between business needs and Palestinian skills, a small and medium enterprise incubator, a cultural center, national park, and an amphitheater. Rawabi is targeting ICT and ICT-enabled industries for the core of the city's economy, along with media and entertainment, education, healthcare and green industries.⁴⁵³

The Rawabi initiative has exposed many of the difficulties associated with building in the West Bank. While the effort began in 2007, construction was on hold for years as Palestinians sought approval for access to a 2.8 kilometer access road that falls within Israeli-controlled area C. Further, the development of the city has faced strong opposition from some Israeli Knesset members, especially those who live in a West Bank Israeli settlement near Rawabi. These individuals are in part upset because all Rawabi contractors have agreed not to use materials produced in Israeli settlements, regardless of the costs they will entail. Nonetheless, construction began even before Palestinians got approval to use the access road. The access road became politicized, with the Israeli government using it as a bargaining chip—urging Palestinian officials to engage in direct peace talks in exchange for approval of the access road.⁴⁵⁴ In 2012, Palestinians gained permission to use the access road for one year, at which time permission for the access road may or may not be renewed.⁴⁵⁵

⁴⁵³ “Enabling Business Environment.” *Rawabi*. <http://www.rawabi.ps/economic.php?link=1&page=work> (accessed November 13, 2012).

“Programs in Development.” *Rawabi*. <http://www.rawabi.ps/mobile/foundation/foundationdev.php> (accessed November 13, 2012).

⁴⁵⁴ Hollen, Anna Van. “A Palestinian City for a New Generation.” *Pulitzer Center on Crisis Reporting*. February 28, 2012. <http://pulitzercenter.org/reporting/palestine-west-bank-rawabi-city-development-infrastructure-economy-negotiations-state> (accessed October 2, 2012).

⁴⁵⁵ Buck, Tobias. “Investor creates Palestinian facts on the ground.” *Financial Times*. September 17, 2012. <http://www.ft.com/cms/s/0/ef61bcc2-00b4-11e2-8197-00144feabdc0.html#axzz2LCAnmnr2> (accessed November 12, 2012).

The US\$850 million investment project is largely being financed by Qatar. It is estimated that the city will provide 3,000 to 10,000 permanent jobs, and accommodate a population of 40,000 residents. There has been a chronic shortage of houses in the West Bank, especially with the hundreds of thousands of Palestinians continuing to live the poor conditions of refugee camps. The West Bank is in need of an estimated 200,000 housing units and Rawabi will be a positive step in providing more available housing to Palestinians.⁴⁵⁶

An area of untapped potential is oil and gas. In 2000, BG Group discovered a gas field named the Gaza Marine in waters near the Gaza Strip that has not been developed, because Israel has restricted the development of the gas field. In 2012, reports surfaced that surveys showed oil near the West Bank Cities of Ramallah and Hebron.⁴⁵⁷ The natural gas and oil will only benefit the Palestinian economy if Palestinians are allowed to develop these industries and engage in trade. Because Palestinians have not been allowed to utilize its gas field off of the coast of the Gaza Strip, all gas has been imported. Neighboring Israel has no oil reserves and has faced energy shortages throughout the decades and has consequently built an impressive solar energy technology industry, with solar energy nearly cost competitive with fossil fuels and becoming cheaper each year.⁴⁵⁸ Rawabi plans to follow the Israeli example by building a city that is energy efficient, using solar and wind technologies. Further, with water shortages a high concern in Palestine and Israel, the city will also be built to maximize water conservation.

To support private investment in Palestine, there are many initiatives the PA should implement. It should work dramatically reduce the cost of doing business, and specifically should strengthen the legal environment and enforce existing laws, especially those relating to ensuring there are clear titles to property. The PA must move forward with reforming the many laws

⁴⁵⁶ (Buck 2012)

⁴⁵⁷ Kattan, Victor. *Oil. Religion. Occupation. ...A Combustive Mix*. Al-Shabaka policy brief, Al-Shabaka, 2012.

⁴⁵⁸ Sandler, Neal. "At the Zenith of Solar Energy." *Bloomberg Businessweek: Global Economics*. March 26, 2008. <http://www.businessweek.com/stories/2008-03-26/at-the-zenith-of-solar-energy>businessweek-business-news-stock-market-and-financial-advice (accessed November 29, 2012).

governing business and must have a functioning PLC to pass new legislation. Some critical laws have already been drafted and are under consideration including the secured transactions law, companies law, competition law, leasing law, tenants law and laws around land and housing.⁴⁵⁹ Further, the PA should continue to shift spending away from wages and remaining subsidies and invest money in developing public physical infrastructure and human capital. The PA should also promote competitiveness by strengthening Palestinian Standards Institute and the Palestinian Trade Center to enhance investors' access to external markets.⁴⁶⁰

The PA must rapidly expand land registration in the West Bank to lower the prices of real estate property and to increase investment. Presently, ownership of land in Area A and B is fragmented and only a small portion is registered and titled. Therefore, the price of land available for sale is extremely high. The World Bank suggests the PA not only complete the registry of public lands in Areas A and B, but make the registry public and prepare for a time when public land in Area C can be added to the registry.⁴⁶¹

Overall efforts to entice investment in Palestine have not gone unnoticed. In a January 2010 report to the U.S. Congress, Jim Zanotti reported on investments in the West Bank stating, "Several high-profile projects—housing developments, industrial parks, superstores, entertainment complexes—have been completed or are in various stages of proposal or construction in and around Ramallah, Bethlehem, Jericho, and the northern West Bank in an effort to jumpstart private sector development."⁴⁶² The PA has shown that it values private sector development, through passing legislation to encourage and protect investors. Many promising initiatives are underway, from the MEII loan guarantee program to the building of Rawabi to the growing Palestinian Securities

⁴⁵⁹ World Bank, March 2012.

⁴⁶⁰ (IMF 2012)

⁴⁶¹ World Bank, March 2012.

⁴⁶² (Zanotti, US Foreign Aid to the Palestinians 2010)

Exchange, all of which are recent initiatives that will likely result in increased investment in Palestine in the coming years.

Trade Policies and Performance

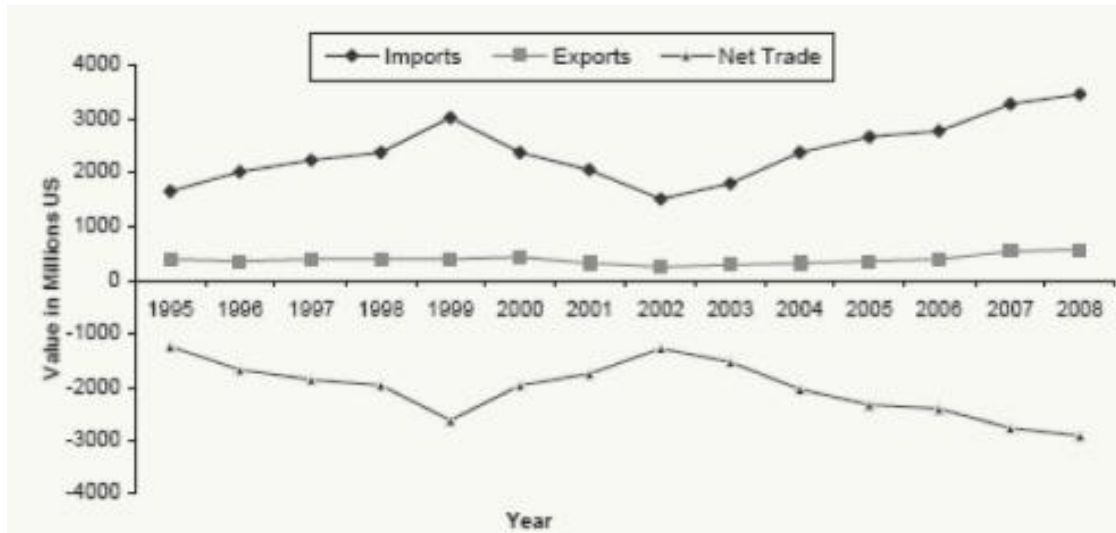
Limited control over borders and trade policies, an underdeveloped private sector, conflict, and inadequate institutional capacity have persistently contributed to the underdevelopment of Palestinian trade. While these factors are interrelated, control over borders and trade policy is fundamental to making progress and Palestinians and Israelis must move beyond the PER and agree to a more permanent agreement that gives the PA more powers.

Trade has grown moderately overall in recent years, but has declined in real terms while Israel has remained the primary trading partner of the WBGS. Due to significant restrictions on exports during the past decade because of the terms within the agreed upon PER, the WBGS has had six to eight times more imports than exports, and has therefore maintained a persistent and significant trade deficit. In the Gaza Strip, exports were banned by the GoI during the reform years, with the exception of some “pre-approved shipments to non-Israeli markets of limited quantities of apparel and of some agricultural and horticultural products.”⁴⁶³ While Palestinian external trade is underdeveloped, small scale domestic trade is prevalent.⁴⁶⁴ Figure 8 displays imports, exports and net trade in the WBGS from 1995 to 2008.

⁴⁶³ IMF. *Recent Experience and Prospects of the Economy of the West Bank and Gaza*. Staff Report for the Meeting of the Ad Hoc Liaison Committee, New York: International Monetary Fund (IMF), 2012.

⁴⁶⁴ (PIPA 2010)

Figure 8: Palestinian Trade: 1995-2008
(Value in US\$ Millions)



Source: PCBS (2008) Foreign Trade Statistics

PIPA. *Palestine Investment Guide*. Palestine Investment Conference, Bethlehem: Palestinian Promotion Agency (PIPA), 2010.

Figure 8 shows that the value of Palestinian imports have increased since 1995, while the value of exports has stagnated, resulting in an increasing trade deficit. The growing trade deficit reflects access to external aid, institutional, policy regulations as guided by the Oslo Accords and political constraints such as restrictions on trade between the West Bank and Gaza Strip placed by Israel. Table 31 provides trade indicators for the WBGS from 2000 to 2010.

Table 31: Trade Indicators in the WBGS, 2000-2010
(Value in Million US \$)

| Indicators | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
|---|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|--------|
| Total Palestinian Exports | 401 | 290.3 | 240.9 | 279.7 | 312.7 | 335.4 | 366.7 | 513 | 558.4 | 518.4 | 575.5 |
| Total Palestinian Imports | 2,382.00 | 2,033.60 | 1,515.60 | 1,800.30 | 2,373.20 | 2,667.6 | 2,758.70 | 3,284.00 | 3,466.20 | 3,600.80 | 3958.5 |
| Palestinian Net balance Trade | 1,981.00 | 1,743.30 | 1,274.70 | 1,520.60 | 2,060.60 | 2,332.10 | 2,392.00 | 2,771.10 | 2,907.70 | 3,082.40 | 3409.9 |
| Total Exports From West Bank | 323 | 251.9 | 208.1 | 234.4 | 272.8 | 294.2 | 332.8 | 490.7 | 558.4 | 518.4 | 572.2 |
| Total Exports From Gaza Strip | 78 | 38.4 | 32.7 | 45.2 | 39.9 | 41.2 | 33.9 | 22.3 | A/N- | 112 | 3.3 |
| Total Palestinian Imports From Israel | 1,739.00 | 1,352.00 | 1,117.00 | 1,309.60 | 1,747.90 | 1,872.90 | 2,002.20 | 2,442.80 | 2,794.80 | 2,651.10 | 2873.3 |
| Total Palestinian Exports to Israel | 370 | 273 | 216 | 256 | 281.1 | 290.6 | 326.6 | 455.2 | 499.4 | 453.4 | 488.3 |
| Total Exports From West Bank to Israel | 311 | 235.5 | 189.4 | 217 | 246.1 | 253.4 | 292.6 | 448 | 499.4 | N/A | 488.3 |

Source: PCBS. "Foreign Trade: Current Main Indicators: 2000-2010." *Palestinian Central Bureau of Statistics*. 2012. <http://www.pcbs.gov.ps/DesktopDefault.aspx?tabID=3565&lang=en> (accessed February 1, 2012).

It is evident from Table 31 that the West Bank engages in the majority of all trade in the WBGS, with trade in the Gaza Strip nominal and erratic. Further, Palestinian exports to Israel have contracted since 2008. The IMF reports that exports of goods and services to Israel contracted by 24 percent from 2008 to 2011.⁴⁶⁵ Construction of the separation barrier and a slowdown in Israeli growth were key factors contributing to a slowdown in exports to Israel. Imports from Israel have also contracted. In 2010, imports from Israel to the WBGS constituted 73 percent of all Palestinian imports. Imports from Israel fell to 65 percent of all Palestinian imports in 2011, constituting a

⁴⁶⁵ (IMF 2012)

relative decrease of 2.3 percent from 2010 to 2011.⁴⁶⁶ Table 32 outlines the global distribution of Palestinian Trade in 2008.

Table 32: Global Distribution of Palestinian Trade in 2008

| Place of Origin / Destination | Imports | Percentage | Exports | Percentage |
|-------------------------------|-----------|------------|---------|------------|
| Asia | 263,727 | 7.6% | 825 | 0.1% |
| Africa | 26,505 | 0.8% | 1,819 | 0.3% |
| Europe | 265,327 | 7.7% | 8,486 | 1.5% |
| America | 60,232 | 1.7% | 3,839 | 0.7% |
| Arab States | 5,249 | 0.2% | 9,932 | 1.8% |
| Jordan | 47,126 | 1.4% | 34,122 | 6.1% |
| Israel | 2,794,829 | 80.6% | 499,423 | 89.4% |
| Other countries | 3,173 | 0.1% | 0 | 0.0% |
| Total | 3,466,168 | 100.0% | 558,446 | 100.0% |

Source: PCBS (2009) Foreign Trade Statistics (PIPA 2010)

The snapshot of Palestinian trade in the year 2008 provided in Table 32 illustrates that trade with Israel dominates WBGS trade, with 80.6 percent of the WBGS's imports coming from Israel

⁴⁶⁶ Rubinstein, Danny. "Economic Ties Decline Between Israelis and Palestinians." *Al-Monitor*. December 4, 2012. <http://www.al-monitor.com/pulse/business/2012/12/the-palestinian-economy-seeks-in.html> (accessed January 3, 2013).

Haas, Amira. "A Palestinian boycott of Israeli goods won't hurt Israel." *Haaretz*. December 17, 2012. <http://www.haaretz.com/news/diplomacy-defense/a-palestinian-boycott-of-israeli-goods-won-t-hurt-israel.premium-1.485451> (accessed December 21, 2012).

and 89.4 percent of all Palestinian exports going to Israel. The WBGS received approximately 15 percent of its imports from Asia and Europe and 6.1 percent of its exports went to Jordan. Otherwise, trade with other countries and regions was nominal. Table 33 includes trade data for the WBGS, Middle East and North Africa (MENA), and Organisation for Economic Co-operation and Development (OECD) in 2012. This data provides a partial picture of what it is like to engage in trade in the WBGS in 2012.

Table 33: Doing Business in the West Bank and Gaza: Trade, 2012

| Indicator | West Bank and Gaza | Middle East & North Africa | OECD |
|-------------------------------------|--------------------|----------------------------|-------|
| Documents to export (number) | 6 | 6 | 4 |
| Time to export (days) | 23 | 20 | 10 |
| Cost to export (US\$ per container) | 1,310 | 1,057 | 1,032 |
| Documents to import (number) | 6 | 8 | 5 |
| Time to import (days) | 40 | 24 | 11 |
| Cost to import (US\$ per container) | 1,295 | 1,238 | 1,085 |

Source: (The World Bank 2012)

OECD is an acronym for Organisation for Economic Co-operation and Development, which includes High Income Economies

In 2012, the World Bank ranked the WBGS as 113 out of 183 economies with regard to trading across borders. While the WBGS is ranked worse than over 60 percent of all economies measured in the World Bank's *Doing Business* report, overall, the WBGS ranks similar to countries in the region in most aspects of trade, while the high income OECD countries make it far easier to trade. It should be noted, however, that it takes significantly more time to import in the WBGS than even the regional average. It takes an average of 40 days to import in the WBGS, while it takes 24 days in the MENA and only 11 days in OECD countries to import.⁴⁶⁷

⁴⁶⁷ (The World Bank 2012)

Trade in the WBGS is impeded by many factors. While the PER technically governs Israeli-Palestinian trade relations, in reality, significant aspects of it have not been followed or implemented, so the structure of Palestinian trade largely remained the same following its implementation. A critical issue with regard to trade is that the WBGS does not have any control over its borders. While the Gaza-Jericho Agreement was designed to enable the PA to work with Israeli counterparts at border crossings, Israel has removed PA participation, removing the ability of the PA to reduce the time goods wait at border crossings on the way to their destination.⁴⁶⁸

The PA attempted to use its newfound authority through the PER to create free trade agreements with the European Union (EU), Turkey, the European Free Trade Association (EFTA), and participated in the Greater Arab Free Trade Area of the Council of Arab Economic Unity, along with forming other bilateral and regional trade agreements. While the agreements presented a significant opportunity for export diversification and growth, Israel has not recognized the PA's trade agreements so they have not been implemented.⁴⁶⁹ The PA has a free trade agreement with the U.S. and Canada, which is an extension of their free trade arrangements with Israel.⁴⁷⁰

Israel maintains control over significant aspects of Palestinian trade. For example, nearly all external Palestinian trade must take place through Israeli ports and airports. Israeli-imposed security obstacles and checkpoints make the movement of goods and people time-consuming and costly. While Israeli barriers to movement fell overall during the reform years, in 2011, obstacles and checkpoints in the West Bank grew from 500 in August to 523 in December.⁴⁷¹ Work permits are required to enter parts of the West Bank and into Israel, and are difficult to obtain. The IDF will not consider issuing a permit if the individual or if a relative of up to the fourth degree has been charged with an act of violence against Israel. Considering the many conflicts between Palestinians and

⁴⁶⁸ (The World Bank 2010)

⁴⁶⁹ (PIPA 2010)

⁴⁷⁰ PalTrade. *Trade Agreements between, Vision, Implementation and Impact*. Palestine Trade Center, 2010.

⁴⁷¹ (IMF 2012)

Israelis since 1948, only a small percentage of Palestinians qualify for work permits.⁴⁷² A United Nations Conference on Trade and Development (UNCTAD) report on UNCTAD assistance and prospects of the Palestinian economy indicates that the security separation barrier has deepened Palestinian isolation from global markets. The report indicates that the barrier and related access restrictions resulted in a 30 percent decline in total exports from Palestine to Israel in 2008 to 2009.⁴⁷³

West Bank traders face a plethora of obstacles, a few of which, include: the lack of a body to report complaints to regarding the processes at commercial crossings; restrictions on pallet sizes that results in the use of more trucks to transport materials; refrigerated goods must be unloaded at crossings and undergo a lengthy inspection, which results in the spoilage of significant quantities of food; long processing and waiting time; and limited working hours and days at commercial crossings. All of these obstacles increase transaction and transportation costs to shippers and discourage Palestinian trade.⁴⁷⁴

The PER called for the WBGs to be treated as one territorial unit. However, Israel controls the roads between the West Bank and Gaza Strip and since the election of Hamas in Gaza, Israel increased the limitations on movement between the areas, maintaining a land and sea blockade on the Gaza Strip. The blockade has had a damaging effect on trade between the West Bank and Gaza Strip. The blockade is particularly targeted towards machinery and equipment that could have dual military and civilian use.⁴⁷⁵ While some of these restrictions may bring about greater security, they have a damaging effect on business. The list of dual-use items is always changing, and if an item is on the list, a permit must be acquired in order for it to clear customs.⁴⁷⁶ These restrictions deprive the private sector of imported goods and export markets. The World Bank points out those dual-use

⁴⁷² Breaking the Silence. "A checkpoint for Israel's bank account." *Breaking the Silence*. 2006. <http://www.breakingthesilence.org.il/testimonies/database/101792> (accessed October 14, 2012).

⁴⁷³ (UNCTAD 2011)

⁴⁷⁴ PalTrade. *West Bank Bi-monthly Monitoring Report. August–September 2010*. PalTrade, 2010.

⁴⁷⁵ (IMF 2011)

Dual-use items are items that have both civilian use as well as potentially other harmful use to which they could be diverted after import into the West Bank.

⁴⁷⁶ (PalTrade 2010)

restrictions have hurt the information and communications technologies and agricultural sectors. For example, in 2009, Palestinian farmers had to seek more expensive and less effective fertilizers because those they had traditionally used contained nitrogen, phosphorus and potassium, all of which were being restricted because of their potential use in making explosives.⁴⁷⁷

In September 2011, the PLO published a document outlining key responsibilities that Israel agreed to in the PER that it had not implemented that were affecting the potential of the Palestinian economy. The following items relating to trade were included in the list:

- Israel has violated its duty to consult and notify the Palestinians before making any changes to Israeli import policy or rates that affect Palestinians (as outlined in Article III(6)).
- Israel continues to deny the PA full authority to implement its own import policy at the international border crossings in the West Bank and Gaza Strip, in violation of Article III (14). This has meant that Israel has maintained exclusive control over deciding the kind, type, and quality of goods allowed into the OPT.
- Israel refuses to recognize Palestinian standard certificates and conformity marks, and restricts the PA's right to set its own petroleum products policy (in violation of Article III (12)).
- Israel applies different standards for plants and animals, animal products and biological products than those adopted or recommended by relevant international organizations, resulting in trade barriers between the two parties and between Palestinians and the rest of the world in agricultural products (in violation of Article VIII).
- Israel has attempted to prevent Palestinian dairy and meat products from entering East Jerusalem, which forms part of the OPT, and the Israeli market (in violation of Article VIII).
- Although the parties have agreed to establish a Joint Economic Committee (JEC) to follow up on the implementation of the Paris Protocol, Israeli actions have paralyzed the JEC. For example, Israel continues to delay the implementation and resolution of outstanding issues, including approving goods that are already on Lists A1, A2, and B annexed to the Paris Protocol (in violation of Article III).
- According to Article III, Palestinian importers should receive equal treatment at Israeli ports of entry. In practice, Israel discriminates against Palestinian importers, resulting in delays and added costs to the Palestinians.⁴⁷⁸

⁴⁷⁷ (The World Bank 2010)

⁴⁷⁸ (PLO Negotiations Office 2011)

It is essential for the Palestinian and Israeli governments to create a policy environment that fosters intensive integration into international markets because Palestine's domestic market is small. In addition to Israel, neighboring and close-by Arab as well as European markets are inviting for Palestinian exports because of their proximity. Expanding production and exports will allow Palestinian enterprises to produce at an increasingly efficient scale, which will encourage higher productivity and allow for higher employment rates with higher wages. Further, the Palestinian economy will benefit most from specializing in goods in which they possess a comparative advantage.

The trade agreement under which the PA operates as stipulated by the PER was intended to be temporary in nature, and its continued use is unsustainable. However, it will likely remain in place until Israelis and Palestinians reach a peace agreement unless the parties are willing to renegotiate it apart from an overall peace agreement. The PA is actively seeking to rejuvenate the Joint Economic Committee to pursue the implementation of PER policies with Israeli counterparts and should concurrently develop plans for a suitable trade regime to implement once it has reached a peace agreement with Israel including one with very low barriers to trade, and one that is anchored in agreements such as the World Trade Organization, and one that progressively phases out remaining barriers to trade as the government generates revenues from other places.

Economic Summation

The PA outlined economic reforms in the *Ending the Occupation, Establishing the State* plan that would strengthen the state and enhance its legitimacy, advancing its ultimate goal of a viable, independent and recognized Palestinian state. During the reform years, the PA made significant economic gains in the West Bank, most visible by high economic growth and a reduced unemployment rate. Maintaining a stable job market and a growing economy is not only vital for the legitimacy of leaders in the PA, but should the economy wane, conflict could reemerge.

Additionally, many infrastructure projects were initiated. While the PA made significant strides towards fiscal retrenchment and lowered the fiscal deficit from US\$1.9 billion to US\$1.1 billion between 2008 and 2011, it remains heavily dependent on external aid.⁴⁷⁹ The ability of the PA to effect economic change within its borders is dependent upon Israeli cooperation and limited by Israeli control over the WBGS.

The types of economic activities have shifted in the West Bank in recent years. For instance, traditional agriculture has become less viable as Palestinians have increasingly less access to land amidst growing Israeli settlements in area C.

Rawabi illustrates these points, as it symbolizes both the progress of the PA and the stark reality of constraints under occupation and doing business in the West Bank. The PA created an environment in which foreign investors have financed the construction of the innovative new city, which will provide jobs for a local, educated workforce, both during the city's construction and after. However, this project is unique because the builders have been persistent despite strong interference and objections by Israelis throughout the process.

A political solution to the Israeli-Palestinian conflict would have a very positive impact on the Palestinian economy. At a minimum, the PER is antiquated, limiting, and should be renegotiated or replaced in the near future.

Nevertheless, the PA and international community can and are making solid progress in working towards creating a conducive investment environment which is comparable to other regional business environments. The PA should immediately address one of the biggest obstacles to doing business that is within its control by dramatically reducing the cost of starting and engaging in business.

While the PA is supportive of the growing grassroots non-violent resistance movement, boycotting Israeli goods from settlements has a harmful effect on the Palestinian economy. This

⁴⁷⁹ (IMF 2012)

phenomenon is likely to persist until a peace agreement is reached with Israel, and seems to be a political necessity to allow Palestinians to voice concerns and is a far better option than violent resistance, which is not only harmful to individuals and the peace process, but is incredibly detrimental to the economies of both the WBGS and Israel.

CHAPTER SEVEN

State and Institution Building Conclusions

“In a time of regional political uncertainty and instability, the global economic slowdown now hinders the capability of international donors to assist the PA... Thus, after three consecutive years of impressive economic growth in the West Bank, PA financial stability is now challenged.”

---Report of the Government of Israel to the Ad hoc Liaison Committee, March 2012⁴⁸⁰

This thesis began by providing a historical account of the establishment of the governance framework in the West Bank and Gaza Strip (WBGs) and introduced the Palestinian caretaker government's state and institution building initiative in the West Bank from 2009-2011. The second thesis objective was then explored in subsequent chapters and in the conclusion, which included an evaluation of the effectiveness of the Palestinian National Authority's (PA) efforts to implement the *Ending the Occupation, Establishing the State* plan in regards to the security landscape, judicial system, and economic development in the West Bank, as well as the attempt to end the occupation and solidify recognition as a sovereign Palestinian state. This conclusion will satisfy the final aim of this thesis by formulating a strategic trajectory for the PA that will make the best use of time and resources to advance the PA's national interests and state and institution building aims.

The PA's plan garnered wide support in the form of technical and financial assistance. An evaluation of the initiative's implementation in the security, justice, and economic sectors revealed that reform efforts did overall strengthen state institutions. The PA did not attain its ultimate aim of ending the Israeli occupation and achieving sufficient recognition of an independent Palestinian state along 1967 borders with East Jerusalem as its capital through the implementation of the plan. The

⁴⁸⁰ (State of Israel 2012)

PA's efforts did, however, yield broader recognition of an occupied State of Palestine by individual states, the United Nations (UN) General Assembly, and member-state organizations.

The PA's efforts and accomplishments gave it international credibility as a government, which was acknowledged by key bodies. In 2011, the World Bank, International Monetary Fund (IMF), and United Nations Special Coordinator Office for the Middle East issued statements indicating that the PA had developed the core governance functions necessary to govern a State of Palestine. Additionally, in 2011, Palestine was admitted as a member state of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and dozens more countries recognized a State of Palestine. By October 2012, 138 of the world's 195 independent countries recognized a State of Palestine, while key powerful states, including Israel, the U.S. and some Western European countries did not. Many other states accorded implicit recognition by engaging in diplomatic relations with Palestine.⁴⁸¹ In 2012, the PLO was recognized as a non-member state of the UN, which was a notable upgrade from permanent observer status to the UN.

Underlying Pressures on State Building in Palestine

While the PA's state building efforts yielded important political advances for Palestinians, the PA has a long way to go toward establishing an environment that is conducive to long-term prosperity. The PA should refocus its efforts to address the underlying constraints that have hampered state building efforts and that threaten to undermine the success of any future PA state and institution building endeavors.

The occupation sets an unusual context for state building. The policies of the occupying power toward the occupied population influence the potential for progress of that occupied people. In this case, the policies of the GoI caused great impositions on Palestinians and their land, limiting their economic and social potential. The more than forty five-year occupation of Palestinian land beginning in 1967, (as determined by the "Green Line" borders set in 1949); the transfer of

⁴⁸¹ (United Nations General Assembly 2012)

population from Israel to the WBGS; the construction of barriers that impede movement and access to land and natural resources in the West Bank; and the extraction of Palestinian natural resources for the profit of the GoI are examples of how the Israeli occupation of Palestinian lands has challenged Palestinian social and economic progress. Despite considerable security achievements in the West Bank, as Israeli settlements grow, so do security obstacles and checkpoints. These obstacles to movement will likely remain as long as the settlements are present and Palestinians and Israelis are separated, clearly impeding the flow of people and goods in the West Bank. The potential of the Palestinian economy will only be realizable once it has full control over all of its land, resources, and borders as an independent state. Further, as long as Palestine remains occupied, the GoI risks opposition and uprising amongst Palestinians.

Limits on the PA's powers became widely apparent during the evaluation of the PA's 2009-2011 state building efforts. The hastily crafted, ill-implemented and formally expired but still used Protocol on Economic Relations (PER) established the powers of the GoI and the PA with regards to the Palestinian economy and to some extent, security. It is within this antiquated economic framework that the PA and GoI operate. While the PER serves as a framework for relations, parts of the PER have not been implemented, some of which, are related to taxation, movement of people, and trade.

During the analysis of the PA's state and institution building plan, it became clear that ensuring Israel's security is at the heart of many of the arrangements and interactions between Israelis and Palestinians. The security arrangement as established in the Oslo Accords gave Israel overarching control over the lives of Palestinians and the PA in order to ensure safety for Israelis living in Israel and the West Bank. The heavy emphasis on Israeli security guarantees within the Oslo Accords reflects the environment during which the Oslo Accords were created. They were created, in part, to help bring the violence of the First Intifada to an end, and at a time when memories of Palestinian violence were fresh in the minds of Israeli negotiators.

The following are some examples of the many GoI security initiatives in place during the reform years that had a negative impact on the day-to-day lives of Palestinians and their economy. The construction of a security fence to separate West Bank Palestinians and Israelis was a unilateral GoI initiative that impeded Palestinian movement goods and people. The GoI also maintained hundreds of road blocks and check points in the West Bank, in large part to separate and ensure the safety of its extensive network of Israeli communities living there. Occasionally, Israeli forces skirted the PA in Area A of the West Bank to retrieve criminal suspects or evidence of subversive activities. Israel unilaterally controlled the borders into and out of the WBGS and decided which people and what goods entered and exited despite provisions within the PER for PA personnel to be present at borders. Further, some Palestinians from the WBGS were held without charges in Israeli jails. These GoI security initiatives were technically permissible through the broad and vague security guarantees built within the PER.

Israel has shown skepticism that a peace agreement with Palestinians will result in enhanced security for its citizens and has insisted upon an improved security environment and security guarantees from Palestinians as a prerequisite to a peace agreement. In order to make lasting progress towards peace, Palestinians and the international community must squarely address Israeli security concerns as it is a prerequisite to policy changes that will favor Palestinian security, economic development, and peace.

During the reform years, the Palestinian economy continued to be highly vulnerable to Israeli policies. These policies had both positive and negative implications for the Palestinian economy. In 2011, the GoI enacted many measures that contributed positively to the Palestinian economy, including the removal of Israel hundreds of roadblocks and dozens of checkpoints, upgrading commercial crossings, approving projects in Area C, increasing the number of permits for Palestinian employment in Israel, and advancing the building of electricity substations in the West Bank. Further, the GoI gave the PA permission to use an access road to the new Palestinian city being built,

Rawabi, that passes through Area C. While the approval of the access road contributed to Palestinian economic development and in future years this road may enable considerable economic development as Rawabi grows, Palestinians and investors worked for years to attain its approval and it was approved only for one year. Most investors are not willing to invest the time and money needed to seek Israeli approval for construction projects that are in Area C or that require roads that pass through Areas C. Israeli reluctance to approve Palestinian economic development projects in Area C hinders Palestinian economic potential.

The analysis of the PA's state building efforts from 2009-2011 revealed critical failures within the Palestinian leadership. One of the primary failures of Palestinian leadership relates to the rift between Hamas and Fatah. During the reform years, Hamas ruled in the Gaza Strip and Fatah ruled through a caretaker government in the West Bank. The two different governments for the West Bank and Gaza Strip resulted in different development paths and different socio-economic conditions for their peoples.

Palestinian leadership in the Gaza Strip has allowed and even encouraged violence in the form of rockets targeting Israel. While security in the Gaza Strip was not a primary focus of this thesis, it has been a serious impediment to social and economic progress and prospects for peace with Israel, which affects all Palestinians. Hamas rulers in the Gaza Strip need to be held accountable for the violence they allow and enable.

The Palestinian Legislative Council (PLC) was not in session during the reform years and elections for the presidency and PLC were not held. The legislature is a critical and necessary component in any democratic system through law-making and providing checks and balances on the branches of government. Fatah and Hamas must prioritize mending relations and holding democratic elections to reinstate the PLC. Hamas will then be beholden to larger PA policies towards security and can be held accountable if its forces attack Israel. The continuing factional divide only hurts Palestinians, the economy, and their chances for peace with Israel.

Another critical failure of Palestinian leadership relates to security. Palestinian leadership failed to protect its citizens, especially citizens who lived in areas under Israeli jurisdiction. When Palestinians were mistreated by the Israeli Defense Forces (IDF) forces or by Israelis who lived in settlements, Palestinians and the PA had few options for recourse. During the negotiation of the Oslo Accords, the GoI and PLO agreed that a Joint Security Coordination and Cooperation Committee (JSC) would allow Palestinian and Israeli representatives to deal with security matters of mutual concern; alleged violations of the security stipulations in the agreements; and differences relating to the application or implementation of the security arrangements. The JSC was largely useless, as Palestinians were ineffective at successfully challenging Israeli violations of individual or collective rights.

Another security concern emanates from Palestinian police forces in the WBGS who at times mistreated their own citizens, particularly members of Hamas. The international community should urge the PA to place a higher value on human life and follow the due process of law, regardless of a person's political affiliation or if they are accused of a crime. It also should support the PA in seeking a renegotiation of the Oslo Accords so that the PA has jurisdiction over security for Palestinians in all of the West Bank and East Jerusalem.

During the reform years, the PA sought external financing to fund its state and institution building initiatives. Initially, the international community provided the funds the PA sought but by 2011, the PA faced difficulty in securing all the funds pledged by the international community. The PA hoped to reduce its need for external assistance, largely through the implementation of fiscal austerity measures and a growing private sector. While the PA's dependency on external assistance lessened during the reform years, its continued dependence left the PA vulnerable to fluctuating assistance levels from external donors. While the PA aimed to create conditions for large scale private sector development, it did not happen during the reform years. The inadequate revenues resulted in a fiscal crisis for the PA and in turn the government greatly reduced budgeted

expenditures and borrowed up to commercial bank limits including US\$137 million to meet this financing gap, reducing the availability of financing for the private sector. By the end of 2011, debt to commercial banks rose to dangerously high levels at US\$1.1 billion, which is equivalent to approximately 93 percent of the Palestinian banks' equity.⁴⁸²

Some of the key underlying issues that must be addressed in order to create conditions for long-term growth include the need to create a more welcoming investment environment through measures by the PA and GoI, implementing some unfulfilled promises of the PER and renegotiating parts of it, and ultimately ending the Israeli occupation of Palestinian lands. In addition to passing measures to stimulate private sector growth and enacting fiscal austerity measures, the PA could renegotiate the economic framework it shares with the GoI and help channel tax revenues to the PA. If all of these strategies are pursued by the PA, in the future it will be able to pay back local banks, offset risks from unreliable border clearance revenues transfers, and could potentially experience a surplus in its budget and be able to finance future state and institution reform efforts.

Palestinians and their leaders are impacted by the actions of external actors that are either working to liberate Palestine or are working in ways counter to Palestinian efforts for independence and statehood recognition. One such influence is the Boycott Divestment and Sanctions Campaign and movement. While the movement may create an economic incentive for Israel to halt expansion of settlements in the West Bank, this growing movement hurts the Israeli and Palestinian economies as both Palestinians and Israelis are highly reliant on employment in Israeli settlements in the West Bank.

The UN has historically played a large role in Palestine and it continued to do so during the reform years. The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) is the primary caretaker for Palestinian refugees, alleviating much of the burden placed on host countries. UNRWA services arguably allow the refugee situation to continue without resolve.

⁴⁸² (IMF 2012)

Further, the UN General Assembly and Security Council have played a controversial role towards Israel and Palestinians. The U.S. and Israel maintain a powerful alliance and while the majority of the UN members have sought to hold Israel accountable throughout the years for its actions deemed illegal towards Palestinians and its Arab neighbors, the U.S., through its voting power as a permanent member on the UN Security Council, has repeatedly shielded Israel from UN repercussions. Other powerful countries in Western Europe have also been reluctant to use the UN as a tool to hold Israel accountable, and these countries have been central in urging Palestinians and Israelis to settle differences through direct, bilateral negotiations. While Palestinian leaders have suggested they are committed to bi-lateral negotiations with Israel as they agreed to in the Oslo Accords, there was little progress made through negotiations during the reform years and Palestinians sought to improve their status, rights, and power through the UN during this timeframe. These efforts were met with strong reactions—from the temporary withholding of some U.S. financial assistance to PA institutions; delays in monthly clearance transfers from the GoI to the PA; and the GoI threatening to cancel the Oslo Accords, dissolve the PA, and reassume absolute occupying control in the WBGS. The PA must consider the strong repercussions it may experience when it engages the international community and specifically the UN in its quest to gain statehood recognition and rights.

The aforementioned factors—the Israeli occupation; ill-suited arrangements governing Israeli-Palestinian relations, particularly with regard to the economy and security; the expression of Israeli security concerns as they relate to Palestinians; Palestinian leadership failures; and exceptionally high levels of involvement and influence in Israeli-Palestinian issues by the international community—result in unique constraints on, and opportunities for, the Palestinian state building process and will have a large influence on future state building for the Palestinian society. Palestinian leadership should do all within its control to take advantage of the opportunities for, and ease the constraints to, social and economic development. A proposed strategy will be presented in the latter section of this conclusion.

Key Takeaways from Reform Plan Implementation

Overall, the PA, in cooperation with the IDF, provided an increasingly secure environment for Palestinians in the West Bank during 2009-2011, marked by reduced crime, more tips being reported, and more training offered to the PSF. The continued support by the PA of the nonviolent resistance movement is key to continue to channel Palestinian frustrations with the Israeli occupation in a non-violent manner. The successes of PA security sector reform in the West Bank was possible in part because Israel, the U.S. and the European Union played a strong role in the planning, financing, training, and implementation of security initiatives. These parties' continued cooperation and support of the PA is critical for the PA to continue to build a secure environment for Palestinians in the West Bank.

During the reform years, some PA security personnel continued to act outside of the law and received impunity within the justice system. Many of the abuses were directed towards Hamas members and sympathizers. Both the PA and the IDF should hold members of their respective forces accountable when they abuse or kill Palestinians outside of the rule of law. The Arab Spring should serve as a stark reminder to the PA and GoI that citizens may rise against their governments if their rights are infringed upon or denied.⁴⁸³ Further, the PA must balance Israel's security needs with the rights and security needs of its people. In order to rein in the PSF to follow the rule of law, with all members of society, the International Crisis Group recommends the PA: "Establish...an ad hoc, independent mechanism to oversee the PSF" which will be possible once the PLC convenes.⁴⁸⁴

The international community was also supportive and enabling of Palestinian justice sector reforms during the reform years. More judges were trained, more cases were tried and enforced in a

⁴⁸³ During an interview, Mohammad Mustafa, Head of the Palestine Investment Fund (PIF), reflected on security and tourism, noting that when security was at its highest levels, the West Bank city of Bethlehem could not absorb the volume of tourists to the city, so tourists resorted to staying in Jerusalem hotels. By contrast, during times when individuals perceived a low level of security, tourism suffered greatly with occupancy in Bethlehem hotels at less than 15 percent during times of conflict.

(Journal of Palestine Studies 2010)

⁴⁸⁴ (International Crisis Group 2010)

timelier manner, new courts were established, including an anti-corruption and customs court, public perceptions of the courts improved, judges were rotated to different governorates to reduce conflicts of interest, and judges and public prosecutors were selected through a more transparent process. These improvements provided Palestinians with a source of recourse for their grievances, enhanced security in the West Bank, and provided a more secure environment for businesses, and are components of any democratic system.

With the Palestinian Basic Law enacted in 2002, many of the bodies that make up the Palestinian judiciary are relatively new creations and there is plenty of space for their further development. While small advances were made with regards to ensuring the separation of powers, any major improvement in the separation of powers requires the further development of legislation that clarifies the roles of the bodies that make up the Palestinian judiciary, including the Ministry of Justice, the High Judicial Council, and the Supreme Judicial Council. Palestinians must prioritize reconvening the PLC to make this possible.

While there were advances in creating an independent and impartial judiciary, there continued to be high levels of corruption in the court system. Transparency International should expand its efforts to encourage the PA to promulgate legislation and encourage enforcement of existing legislation to increase transparency of public officials in the West Bank.

The Palestinian judiciary has the potential to provide greater security to Palestinians and to help end the factional divide between Fatah and Hamas. The judiciary can achieve these aims by not tolerating abuses or other injustices based on political affiliation, and by holding security personnel accountable upon investigations of complaints of human rights abuses in jails.

During the reform years, the PA made significant economic gains in the West Bank, most visible by strong economic growth, and a reduced unemployment rate. A few notable positive developments in the economy during 2009-2011 include a reduction of PA spending as a percentage of GDP; a reduction in the PA's reliance on external aid; and increased access to financing and

technical assistance to businesses. These economic gains were partly a result of PA policies.

The PA encouraged local and foreign investment in 2011 by an amendment to the Law on the Encouragement of Investment in Palestine and resulted in the creation of the Palestinian Investment Promotion Agency (PIPA). The PA also enacted reforms that strengthened the business environment in Palestine relating to property registration, courts and the ease of starting a business and to securing financing. PA institutions increased their transparency and the PA enacted some fiscal austerity measures and adopted wide-ranging reforms to its public financial management system. Some of the PA's fiscal management-related reforms included the introduction of the following: a new commercial accounting section in the Palestinian Ministry of Finance, a Financial Management Information System to link the Ministry of Finance to line ministries, an electronic payment system that raised bank payments' efficiency and reduced liquidity risk, a new central bank law to guarantee the independence of the PMA, and a credit scoring system, contributing to the rise in bank credit to the private sector.

The economic gains were accompanied by instability within the Palestinian economy. A couple of indicators of the economic instability in the West Bank include a struggling private sector and GDP growth fueled by unstable funding sources. Growth was largely a result of large sums of external assistance to the PA and PNGOs and high paying, yet unpredictable construction and related jobs in Israel and in Israeli settlements in the West Bank. Further, the size of the public sector was excessive and employees were paid on average wages twice as high as that of private sector employees. In addition, trade was floundering and was marked by low levels of Palestinian exports, few trading partners, and slow movement of goods.

Some PA policies made it difficult to do business in Palestine including the turnaround time and capital requirements to start a company. The PA should enact more policy changes that will improve the business environment and attract investment in Palestine. Suggestions to address other weaknesses in the Palestinian economy are detailed below.

PNGOs are exceptionally prevalent in the West Bank. While the PA has indicated that private sector growth is one of its key goals, employment in the public sector and PNGOs continue to grow and usurp some of the most talented individuals, and hurt an already underdeveloped Palestinian private sector. Like the public sector, PNGOs are highly reliant on external assistance. Reliance on external assistance is risky because of its uncertain nature and because of the stipulations placed on how money can be used, which could be good or harmful to the economy. Should external assistance to the PA or PNGOs drop off considerably, the Palestinian economy could even collapse.

To help bring about successful development, PNGOs should partner and coordinate activities between each other and partner with Palestinian governmental institutions and the private sector. Further, the PA and society should be hesitant to be overly reliant on PNGOs to fill needs of Palestinians. For instance, some PNGOs mentor small and medium sized businesses on how to navigate the arduous business of engaging in trade. Their efforts may contribute to the normalization of the underlying structural problems with Palestinian trade that the PA and GoI need to address. Should the PA want to minimize the role of PNGOs in the West Bank as an effort to support private sector growth, it could offer PNGOs fewer tax incentives.

The World Bank's Palestinian Facility for New Market Development (FNMD) is a model that showed that external assistance can be effective at stimulating economic growth and increasing trade in Palestine when coupled with high levels of technical assistance and independence from the government. Further, micro financing for small and medium sized businesses has proved vital to their success. Also, USAID programs assisting with economic development, youth and education also provide appreciable benefits to society. The international community can support the Palestinian private sector through providing technical assistance and micro loans to small and medium size businesses.

Palestinian agencies are promoting and enabling investment in Palestine. These agencies include the Palestine Investment Fund (PIF), which provides loans to businesses and banks and

invests in industrial zones; PIPA, which works with investors and formulates investment policy; the Middle East Investment Initiative, which provides business and home loans along with risk insurance to businesses; the Middle East Venture Capital Fund, which provides tech companies with risk capital and access to international markets; and the Palestinian Securities Exchange, which promotes investment in Palestinian companies.

The work of these agencies helped the PA achieve a strong *Doing Business* rating of 46 out of 183 economies in 2011 with regard to protecting investors. The PA should continue to support and enable the work of these agencies. Recent PA efforts and the initiatives of the aforementioned organizations should lead to increased investment in Palestine and employment in the coming years. Accordingly, investment in the tech field and entrepreneurship is critical to Palestinian economic growth and should be highly encouraged with a domestic campaign involving early education skills development around fields such as software engineering and website design. Considering that web and software design fields are an opportunity to create a national brand with an export that is not subject to checkpoints and export controls, taking actions to support this industry much as other nations in Southeast Asia and Israel have done, is an innovative way to circumvent the controls that Palestinians face while gaining national attention and respect.

Building a Palestinian Strategy to Reform the Israeli-Palestinian Economic and Security Framework

The recent Palestinian strategies have devoted much consideration and energy to attaining statehood and state recognition as opposed to other strategies that might more directly advance Palestinian national interests. As opposed to fixating on the overarching goal of statehood, the Palestinian leadership should focus strategic attention on the internal and external obstacles that will constrain long term social and economic prosperity for its citizens. In essence, Palestinian leadership should ensure they have taken the appropriate measures to be at the negotiating table with Israel as a respected, organized and united body that has enacted all possible measures within their control to help foster peace and prosperity.

Also, at the heart of every Israeli decision is the consideration for how Israeli citizens' security is potentially affected. By creating a united Palestinian front, there is a much broader level of security that the leadership can ensure for Israeli citizens as their government decides on the risks that might be associated with loosening economic and security controls. In order to bring Israel to the table for a renegotiation of the PER, which will greatly affect the long-term economic future of the Palestinians, the Palestinians immediate focus on statehood should be redirected to security, workforce ingenuity, and creating an environment conducive to doing business. In doing so, they will accelerate the argument for statehood much faster than an overriding focus on statehood status will.

In September 2011, President Abbas expressed frustration with the PER and indicated the Palestine Liberation Organization (PLO) wanted it changed. He told reporters en route to Amman, Jordan from the UN General Assembly: "We want to amend the Paris economic agreement between the PLO and Israel because it is not fair...It (the agreement) contains restrictions that affect the Palestinian economy and hinder its development. The PER does not allow Palestinians to promote their economy."⁴⁸⁵ While the Interim Agreement called for the creation of a Joint Economic Committee for the two sides to discuss the implementation of the PER and work through contentious issues, it has been largely inactive and failed in its role and in recent years, the PA has been trying to rejuvenate it. However, lack of mechanisms for enforcement of the PER have been a consistent challenge for the PA and has restricted Palestinian economic growth.

Considering the PER was created as a quick solution to end conflict and provide a first step for intermediate relations following the First Intifada, the PA should seek to renegotiate the terms of the Oslo Accords and specifically the PER so that they are able to assume more responsibility over the Palestinian economy and security. The PA should seek to renegotiate the PER so that Palestinian security and rights are guaranteed in the same way that Israelis rights are guaranteed, and one group's

⁴⁸⁵ AFP. "Palestinian UN joy, but uncertainty lies ahead." *The Express Tribune*. September 24, 2012. <http://tribune.com.pk/story/259450/palestinian-un-joy-but-uncertainty-lies-ahead/> (accessed January 3, 2013).

rights are not given preference over the other. Further, the agreements should not allow for situations in which the rights guaranteed to the Palestinians in the agreements can be compromised for Israeli perceived threats. However, before the PLO seeks to renegotiate the agreement, it must create space and motivation for Israel to negotiate with the PLO to increase the likelihood of success. The renegotiation of the agreement should be one part of a larger strategy to address internal and external obstacles that prevent sustainable economic growth. Palestinian leadership should consider the following strategic outline.

Palestinians must first create the conditions that are a prerequisite to Israeli compliance in negotiating the Oslo Accords and specifically the PER, by helping to provide Israel with security. While Palestinians in the West Bank have largely embraced non-violence since the end of the Second Intifada in 2005, there has been a steady stream of violence emanating from the Gaza Strip, from the capture and detainment of Israeli soldier Gilad Shalit from 2006 to 2012, to hundreds of rockets being fired from the Gaza Strip into Israel each year, to bouts of violence between the IDF and Palestinians in the Gaza Strip. Palestinian violence in the Gaza Strip undermines peaceful West Bank Palestinian efforts of engagement with Israel. Furthermore, while many Palestinians do not engage in violence, they have been slow to renounce it and may actually tacitly support the violence when Palestinian militants engage in violent actions. Palestinians worldwide must show their commitment to peace by consistently denouncing Palestinian violence of all forms. Palestinian leaders in the Gaza Strip should model the approach of West Bank leaders to channel citizens' frustrations with the Israeli occupation through participation in nonviolent resistance activities such as the Boycott, Divestment, and Sanctions Campaign.

While Palestinians in the WBGS are largely separated, their leaders are able to visit both territories and have occasionally travelled to the other Palestinian territory. Leaders in the Palestinian caretaker government in the West Bank, leaders within the PLO, and even the influential Egyptian leadership should actively work with Hamas leaders to seek their cooperation and acquiescence to

renounce violence and recognize a sovereign State of Israel (previous demands of the Quartet for Peace on the Middle East) even offering financial incentives, a legitimacy plan and inclusion in the caretaker government to ensure that they proactively cooperate in ensuring peace because of what they potentially stand to lose. The most important step the caretaker government can take to earn the respect and acquiescence of Hamas is to implement measures to extend protection and freedom of speech to Hamas members living in the West Bank. This freedom of speech should be complimented with measures via media and other outlets to create a culture embracing a unified Palestinian identity, and that unified identity's commitment to peace and cohabitation with Israel. There have been moderate gains in this arena in recent years, though until Hamas leaders fully agree to ensure nonviolence, bouts of violence by Palestinian militants will continue to overshadow other peaceful Palestinian efforts and Israel will remain hesitant to negotiate with Palestinian leadership.

Once Hamas commits to nonviolence, the PLO should seek to establish a peace council made up of key representatives, including those from Egypt, Israel, the U.S., and the EU, with strong representation from Palestinians and namely Hamas to show the international community and Israel that Palestinians are serious about nonviolence and peace.

Palestinians face a legitimacy crisis as they are often presented as aggressors and as terrorists in Israeli and American media outlets based on the violent actions of minority militant groups. Upon the creation of the peace council, the PLO should hire an international public relations (PR) firm. The PR firm can assist Palestinians in developing a rebranding strategy, including mapping out the most effective way to present Palestinians to the international community and in the international media. The strategy can include drawing worldwide attention to the formation of the peace council, the new Hamas as an active supporter of peace, and long-standing peace efforts by Palestinian groups. Some of the Palestinian peace efforts that could be highlighted and promoted further include the wide-spread showing of the film "Gandhi" in Arabic throughout the WBGS and in Palestinian refugee communities in Jordan, Lebanon, and Syria in 2005, the transition from violent resistance to non-

violent resistance to the Israeli occupation following the Second Intifada that ended in 2005, and the many Palestinians and Israelis participating in civil society organizations dedicated to advancing peace.⁴⁸⁶ The promulgation of the peaceful resistance ideology and culture is a crucial part of the plan for Palestinian betterment because it could lessen the likelihood that individuals or small groups would take action into their own hands and risk the success of the overall image and efforts being put forth.

The PR strategy should involve a PR campaign and engage diplomats and domestic leaders. Palestinian diplomats could reach out to constituent groups that have traditionally viewed Palestinians negatively or as a people not wanting peace with Israel and that provide political and financial support for Israel. They could target religious groups within Israel and within Israel's strongest ally—the United States—and engage these groups in the process of defining a vision of peace for Palestinians and Israelis. The Palestinian diplomats could embark on what could be labeled as an “information and idea seeking” campaign in which they directly engage U.S. and Western-European Jewish congregations and large Jewish organizations such as J-Street and Hadassah with town-hall style meetings in various cities. These nationwide campaigns have the potential to humanize the Palestinian cause and create widespread PR efforts for a new era of Middle East cooperation. This, in turn, would put pressure on constituents and funding organizations on Western politicians and the GoI to engage the Palestinians in their peace efforts. By engaging the Jewish support base for Israel directly, and engaging the U.S. public with a plan to provide peace, this step could put pressure on U.S. political leaders to support Palestinian peace efforts, and urge Israel to listen to a large source of its external funding base, as well as the U.S. government as a military and strategic partner. In addition, by making the groups feel as if they are a part of the peace process, the campaign could make many Westerners emotionally invested in progress being made.

⁴⁸⁶ Myre, Greg. “On a silver screen, Palestinians hear Gandhi's message.” *The New York Times*. April 8, 2005. http://www.nytimes.com/2005/04/07/world/africa/07iht-gandhi.html?_r=0 (accessed October 11, 2012).

At this point, Palestinian leadership, in conjunction with the efforts of the PR firm, should seek the removal of a reformed Hamas from the terrorist group list maintained by the U.S. and Israel and Hamas should formally join the PLO. Simultaneously, Palestinian leadership and the PR firm should endeavor to ensure that the PLO, with Hamas's inclusion, does not get reprimanded or negatively labeled. A reformed Hamas promises huge gains to not only the perceptions of Palestinians but to the Palestinian economy. As part of the blockade, Israel largely banned exports from the Gaza Strip during the reform years and a removal of the blockade and ban coupled with approval of an airport and seaport once used in the Gaza Strip, could reap enormous benefits for the Palestinian people and economy. Further, the integration of the Gaza Strip and West Bank economies will allow Palestinians to benefit from economies of scale and has the potential to enhance the movement of goods and people needed to improve trade.

The international perception of Hamas at this stage will be very different and the PA should, at this point, agree to form a joint caretaker government that shares control of Palestinian-ruled areas. Then, the PA should hold presidential and legislative elections open to all political parties. These elections must be fair and not redacted once the results are in, which means that there is a possibility for a Hamas majority in the PLC or as president upon election completion. The fear is that Israel will react negatively to a scenario such as this, and will in turn withhold Palestinian value added tax (VAT) and border clearance revenues, and possibly engage in the persecution of Hamas members as has happened in the recent past. Despite peaceful, free, and fair PLC elections in 2006, when Hamas was elected, the GoI reacted in the aforementioned way and the donor community followed by suspending foreign aid and loans to the PA, ultimately crippling the PA. Such an external reaction would put internal pressure on the PA and Fatah to split ties with Hamas again, which would draw a wedge between the two groups that would be very hard to overcome in the future. Accordingly, the aforementioned strategic steps will help the PA avoid international fallout, a financing catastrophe, and a reinforcement of the division between Hamas and Fatah in the event that Hamas wins a

majority in the PLC or wins the presidential election. At this point, the international community, namely the U.S. and Pro-Israel groups, can attest to a reformed Hamas, and can put pressure on Israel to prevent it from reacting in a way that hampers the Palestinian economy such as withholding border clearance revenues from the PA or further limiting movement of goods and citizens.

These actions should be enacted with the objective of bringing Israel to the table to renegotiate the PER in a serious and meaningful way. All relevant stakeholders should be reminded of the value of renegotiating the PER and should shift their mindset from providing Palestinians with a short-term fix to assisting Palestinians reach a long-term solution. The U.S. should be particularly committed to this process as it provides hundreds of millions of U.S. dollars aid annually to support the Israeli and Palestinian governments. Through the renegotiation of the PER, the need for external assistance will be reduced or eliminated. The ideal outcome should be to address some of the structural flaws of a protocol that was intended to serve as a temporary guideline for economic relations between Israel and Palestine. As such, Palestinians should aim to gain economic freedoms that allow Palestinians to increase economic independence and prosperity, which is necessary to guarantee Israeli security.

Israel will face fewer threats from a Palestinian middle-class population who want to promote peace to maintain the security of their lifestyle and opportunity for their children's futures, as opposed to a financially struggling Palestinian people with less to lose who would be more likely to seek change through violence. The economic well-being of the Palestinian people is the crucial component to Palestinian-Israeli peace. Palestinian people with nothing to lose will embrace conflict, whereas people with everything to lose have nothing to gain from there being any regional conflict. That is the point at which the Palestinian society itself becomes an agent of peace against terrorism, and the trust between the two nations can truly be formed.

The Joint Economic Committee (JEC) was supposed to be the body that provided some oversight to the implementation of the PER. However, since it has not been an effective oversight

body and has not met regularly, it is time for the PA to seek to renegotiate and overhaul the PER so that it has the tools to stimulate the Palestinian economy in a sustainable way and it can better serve Palestinian economic interests.

The following are some of the key structural flaws of the PER that Palestinians should aim to renegotiate with the GoI. The PA should aim to implement parts of the existing PER such as joint PA and GoI presence at borders to ensure proper taxes are collected on goods and to reduce the amount of time it takes to import and export Palestinian goods. The PA should seek to make free trade agreements with other states, enabling the expansion of export and import markets. The PA should also seek to establish an independent body to allow West Bank traders to report complaints regarding the processes at commercial crossings. The PA should also seek to reduce other limitations on trade, and renegotiate customs and tax rates in a more favorable way to the PA. One area that promises a significant increase in revenues to the PA so as to reduce and possibly eliminate the need for external assistance is from indirect imports. While the PER stipulates that clearance revenues should be based on final destination, Israel collects customs revenue from indirect imports destined for Palestinian consumers.

Area C contains enormous economic potential for Palestinians. The PA should seek to gain further jurisdiction over Areas B and C or at a minimum reduce restrictions on Palestinian economic activity in Area C of the West Bank and seek an easier land registration process in Area C. This way, Palestinians can pursue more development projects like Rawabi that would be either located in Area C or have access roads passing through Area C to Areas A or B. Within Area C, the Jordan Valley is an area ideal for agriculture and Dead Sea mineral extraction for cosmetics, industries already developed by Israeli settlement communities that have benefitted the Israeli economy. In 2012,

Oxfam estimated the land's economic contribution "could be US\$1 billion a year to the Palestinian economy, or 9 percent of gross domestic product."⁴⁸⁷

As it stands, Israel receives the VAT taxes from the Area C lands that Israel has essentially annexed via settlements, instead of the PA receiving those tax revenues, despite the businesses and individuals being located on internationally-recognized Palestinian land. It would potentially be more beneficial to the PA if Palestinian jurisdiction was established over these parts and any businesses established in Area C paid VAT taxes to the PA.

One of the most critical points of the PER that the PA should aim to renegotiate is the system of conditional monthly clearance revenues transfers from the GoI to the PA, which constitute 70 percent of PA revenues exclusive of foreign aid. The present system in which Israel delays clearance revenues transfers to the PA as political leverage causes great financial instability to the PA. Further, the PA should seek its right to be at border crossings as stipulated in the Oslo Accords so that it can reduce leakages, which was a significant problem during the reform years. The IMF reported that a five percent increase in clearance revenues would increase the PA's 2012 budget by US\$75 million. Alternatively, the PA could vie to collect the clearance revenues itself or develop an enforcement mechanism to encourage the GoI to transfer funds to the PA in a timely manner.

The PA should also aim to clarify any areas of the PER that are vague or open to interpretation. For example, while the PER calls for the unimpeded flow of people and goods in the territories and between the West Bank and Gaza Strip, it also stipulates that the provisions of the PER are overridden by Israeli security concerns. Furthermore, travel and trade between the West Bank and Gaza has been severely limited in recent years, and a linkage between the two areas would increase the domestic market. Such a linkage should be pursued rigorously by the PA during the renegotiation of the PER. However, considering the relatively small total market, it is more important than ever before for the PA to renegotiate its trading terms with Israel to reduce trade barriers and

⁴⁸⁷ (Oxfam 2012)

make free trade available. The emphasis on free trade with the rest of the world would be a means to prosperity, and would contribute to the convergence of price and income levels.

Summation and Recommendations

The PA's state and institution building initiative in the West Bank during 2009-2011 was a unique and impressive endeavor. Given the legacy of poor leadership and violence in the West Bank and the growing constraints to state and institution building faced by the PA, the efforts and results should be recognized as a turning point in Palestinian history. Progress was possible in part, because of unprecedented Palestinian leadership in the West Bank during the reform years and international financial and technical assistance to the PA and to its citizens. All progress remains fragile and the PA must work diligently to remedy immediate internal and external challenges and threats to its achievements. The PA would be wise to capitalize on its successes and achievements for Palestinians and Israelis through a PR campaign to demonstrate a model of state and institution building in the West Bank. This publicity could initiate a shift in the image of Palestinians so prominently displayed in U.S. and Israeli media—from Palestinian terrorist aggressors—to Palestinian partners in economic development and security. It can use its increased credibility as leverage to further its strategic long-term objectives, including a renegotiation of aspects of the Oslo Accords and specifically the PER to facilitate greater economic prosperity and security in the West Bank and Gaza Strip, and to advance Palestinian statehood recognition and an end to the Israeli occupation.

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APPENDIX A

The Evolution of Palestinian National Aspirations

Origins and Transformation of Palestinian Nationalism

Nearing the end of the implementation of the *Ending the Occupation, Establishing the State* plan in 2011, the Palestine Liberation Organization (PLO) increased its efforts to seek international recognition of a Palestinian state in the West Bank and Gaza Strip, including East Jerusalem. To understand the present day pursuit of state recognition, it is necessary to understand who the Palestinian people are and to review how events have shaped Palestinian national identity. Palestinian identity largely developed during the twentieth century, and was critical to the formation of statehood aspirations.

Critics have contested the existence of Palestinian national identity. One person they have widely cited is the late Zuheir Mohsen, a Palestinian Muslim and member of the PLO. Mohsen challenged the existence of a Palestinian identity and instead called attention to Palestinian Arab identity.⁴⁸⁸ Mohsen has been widely quoted from an interview he gave that was published in the Dutch newspaper *Trouw* in 1977, in which he said:

"The Palestinian people does [*sic*] not exist. The creation of a Palestinian state is only a means for continuing our struggle against the state of Israel for our Arab unity. In reality today there is no difference between Jordanians, Palestinians, Syrians and Lebanese. Only for political and tactical reasons do we speak today about the existence of a Palestinian people, since Arab national interests demand that we posit the existence of a distinct 'Palestinian people' to oppose Zionism."⁴⁸⁹

More than three decades later, U.S. presidential candidate Newt Gingrich echoed similar sentiments in an interview in December 2011, remarking: "Remember there was no Palestine as a state. It was part of the Ottoman Empire. And I think that we've had an [*sic*] invented Palestinian people, who are in fact Arabs, and were historically part of the Arab community."⁴⁹⁰

⁴⁸⁸The Arab League defines an Arab as, "a person whose language is Arabic, who lives in an Arabic-speaking country, and who is in sympathy with the aspirations of the Arabic-speaking peoples."

⁴⁸⁹Dorsey, James. "Wij zijn alleen Palestijn om politieke redten." *Trouw*, March 31, 1977.

Zionism is a political movement that supports a sovereign Jewish national homeland in Palestine.

⁴⁹⁰"Newt Gingrich interview with Jewish Channel (Transcript)." *WP Politics*. December 9, 2011. http://www.washingtonpost.com/politics/newt-gingrich-interview-with-jewish-channel-transcript/2011/12/09/gIQAOWXriO_story.html (accessed December 3, 2012).

This viewpoint misunderstands the historical development of Palestinian national identity. Indeed, opposition to the State of Israel has in part defined that identity and Palestinians simultaneously hold Arab loyalties, but the remarks quoted above reflect an incomplete, narrow assessment, which could have negative repercussions for the present-day Palestinian bid for state recognition. Rashid Khalidi, who is a Palestinian-American, notes that there is a distinct Palestinian identity, and that Palestinian identity it is one of “several overlapping senses of identity.” Khalidi admits those senses of identity “can be misunderstood or misinterpreted by others.”⁴⁹¹ Other identities Palestinians hold include Arab, religious and local loyalties.

An overview of key events that have shaped Palestinian national identity follows. It should be evident from a historical analysis that throughout the years, Jews in Israel have also formed a distinct national identity and share a connection to the same land where Palestinians seek recognition of a nation state. Various names have been used to describe the geographic region “from the Mediterranean [Sea] to the Jordan River, from the deserts in the south to the southern foothills of the Lebanese mountains and Mount Hermon in the North” that constitutes modern-day Israel, the West Bank and the Gaza Strip, which is depicted in Map 1 in Chapter 1.⁴⁹²

Some of the historic names used to describe the region include Land of Israel, Kingdom of Israel, Zion, Holy Land, Palestine and Syria Palaestina. This region is home to Jerusalem, a holy city coveted by Muslims, Christians and Jews. The Hebrew Bible and the closely corresponding Old Testament use the term “Land of Israel” to describe the majority of this geographic region and use the term Philistia to describe a small strip of land that encompassed the approximate geographic region of the modern-day Gaza Strip. Some Jewish adherents of the Hebrew Bible and Christian adherents of the Old Testament believe this geographic region, and most importantly, Jerusalem, to be God-given land for the Jewish people.⁴⁹³

The Land of Israel Before the First Aliya

Around 1200 BCE, after unsuccessfully attacking Egypt, a people likely of Aegean origin, settled in the southern Levant by the Mediterranean Sea and ruled five city states extending along the seacoast of present-day Gaza, the southwestern and central seacoast of Israel and inland into present-

⁴⁹¹ Khalidi, Rashid, *Palestinian identity: the construction of modern national consciousness*. New York: Columbia University Press, 1997, 19.

⁴⁹² (Khalidi 1997, 14)

⁴⁹³ Ezekiel 11:17. Revised Standard Version.
Zephaniah 2: 4-7. Revised Standard Version.

day central Israel. The people became known as the Philistines, and the land became known as Philistia.⁴⁹⁴ Around 1000 BCE, according to the Hebrew Bible, in response to continuing threats by the Philistines, Jewish tribes united to form the powerful Kingdom of Israel in the Land of Israel, with Jerusalem as the capital. The Hebrew Bible depicts the Philistines and the Israelites as archenemies. The united monarchy existed until 922 BCE, when it split into the Kingdom of Israel (Samaria) in the north and the Kingdom of Judah in the south.⁴⁹⁵

Throughout the centuries, Jews were subjected to various rulers and oftentimes exiled from the land of Israel. This was especially pronounced during the Babylonian rule in the middle of the fifth century BCE and later under Roman rule. Nonetheless, in varying populations, the Jewish people continued to exist as a distinct ethnic and religious group in the Land of Israel. By contrast, the Philistines were faced with an increasingly diluted identity as subsequent peoples ruled the region and they eventually disappeared as a distinct culture first through the process of subjugation to Assyrian rule and later through full assimilation into the Babylonian and Persian Empires.⁴⁹⁶

Following the advent of Christianity in the Land of Israel in the first century CE, Jews faced discrimination under the rule of the Roman Empire, though succeeded in briefly establishing an independent Jewish State of Israel in Jerusalem and its surrounding area. The Jewish state was toppled in just over two years in 135 CE, and in an effort to destroy the Jewish people and their faith; the Roman Empire expelled many Jews and forbade them from practicing their faith. The Romans renamed the Roman province of Judea (formerly the Kingdom of Judah) Syria Palaestina, a cognate of the earlier term Philistia, a term which carried negative connotations for Jews.⁴⁹⁷ While the term Palestine had been used to reference the land of Israel as early as mid-fifth century BCE by Herodotus, the term Palestine expanded in use after Romans named the geographic region Syria Palaestina.⁴⁹⁸

Christians also faced discrimination in the Roman Empire; but the Christian religion grew in popularity and by 380 CE it was the official religion in the Roman Empire, with Palestine initially serving as the center of Christianity though Rome soon became the center of Christianity.⁴⁹⁹ With the

⁴⁹⁴ Bright, John. *A History of Israel, Fourth Edition*. Fourth edition. Louisville, Kentucky: Westminster John Knox Press, 2000, 132, 176.

⁴⁹⁵ (Bright 2000, 195, 230)

⁴⁹⁶ (Bright 2000, 343-354)

⁴⁹⁷ Lehmann, Clayton Miles "Palestine: History: 135–337: Syria Palaestina and the Tetrarchy." *The On-line Encyclopedia of the Roman Provinces*. <http://sunburst.usd.edu/~clehmann/erp/Palestine/history.htm#135-337> (accessed December 4, 2012).

⁴⁹⁸ Jacobson, David M. "Palestine and Israel." *Bulletin of the American Schools of Oriental Research*, no. 313 (February 1999: 65–74.

⁴⁹⁹ (Lehmann 1998)

advent of Islam in the seventh century CE, this new religion spread throughout the Middle East rapidly. Palestine was conquered by the Islamic Empire in 636 CE, leading to a rapid growth of Muslim Arabs in Palestine who spoke the Arabic language, surpassing the Christian and Jewish populations.⁵⁰⁰ The historical changes in the population of the three main religions groups in Palestine can be observed in Table 1A.

Table 34: Population in Palestine West of the Jordan River, by Religious Groups, 1st Century – 2000 (Rough Estimates, Thousands)

| Year | Jews | Christians | Muslims | Total ^a |
|--|----------|------------|----------|--------------------------|
| First half 1 st century C.E. | Majority | - | - | ~2,500 |
| 5 th century | Minority | Majority | - | >1 st century |
| End 12 th century | Minority | Minority | Majority | >225 |
| 14 th cent., bef. Black death | Minority | Minority | Majority | 225 |
| after Black death | Minority | Minority | Majority | 150 |
| 1533-39 | 5 | 6 | 145 | 157 |
| 1690-91 | 2 | 11 | 219 | 232 |
| 1800 | 7 | 22 | 246 | 275 |
| 1890 | 43 | 57 | 432 | 532 |
| 1914 | 94 | 70 | 525 | 689 |
| 1922 | 84 | 71 | 589 | 752 |
| 1931 | 175 | 89 | 760 | 1,033 |
| 1947 | 630 | 143 | 1,181 | 1,970 |
| 1960 | 1,911 | 85 | 1,090 | 3,111 |
| 1967 | 2,374 | 102 | 1,204 | 3,716 |
| 1975 | 2,959 | 116 | 1,447 | 4,568 |
| 1985 | 3,517 | 149 | 2,166 | 5,908 |
| 1995 | 4,522 | 191 | 3,241 | 8,112 |
| 2000 | 4,969 | 217 | 3,891 | 9,310 |

a Including "Others": Druzes, other small religious minorities, and since 1990, immigrants from the former USSR without religious affiliation.

Sources: Until 1975: R. Bachi (1977); after 1975: Author's estimates based on: Israel Central Bureau of Statistics; Palestinian Central Bureau of Statistics.

Source: DellaPergola, Sergio. "Demography in Israel/Palestine: Trends, Prospects, Policy Implications." Paper presented at the XXIV International Union for the Scientific Study of Population General Population Conference, Salvador de Bahia, 2001.

Following the Islamic conquest of Palestine, Arab Muslims retained their majority status in Palestine for more than a millennium, with small Christian and even smaller Jewish communities existing in Palestine. The Ottoman Turks occupied Palestine in 1516 CE and Palestine became part of the Syria Province of the expansive Ottoman Empire, though the term Palestine continued in

⁵⁰⁰ Meyers, Eric M. (1997) "American Schools of Oriental Research." *The Oxford Encyclopedia of Archaeology in the Near East* (Oxford University Press), no 5 (1997) 365.

use.⁵⁰¹ Under Ottoman rule, provinces such as Syria enjoyed much autonomy and populations were largely subjected to local rule.⁵⁰²

Jewish Immigration to Palestine

In the late nineteenth century, Jews began emigrating to and settling in Palestine, marking the beginning of a historic religious demographic shift. Facing oppression in Eastern European countries in the early 1880s, Jews formed organizations to provide financial and technical assistance to facilitate the transfer of Jews to the Ottoman Empire, specifically to Palestine. Jews from other countries, notably Yemen, also began immigrating to Palestine. This wave of Jewish immigration to Palestine is known as the first aliya, and it occurred during 1882 to 1903. The Jews that immigrated were largely secular, and did so in pursuit of economic opportunities and a better life.

Often with the help of middle-men and Ottoman officials, Jews arriving in Palestine purchased land from Arab merchants or absentee landlords. Large tracts of land were concentrated in few hands, facilitating the sale of Arab land to Jewish immigrants.⁵⁰³ The Jewish settlers developed the land, which resulted in some Arab displacement, as many Arabs did not own the land they lived on and worked. Oftentimes, however, Jews that were part of the first aliya hired Arabs to work the land or Arabs leased the land from the new Jewish owners.⁵⁰⁴ During this time, sovereign states were

⁵⁰¹ (Meyers 1997)

⁵⁰² (Quigley, Statehood of Palestine 2010, 10)

⁵⁰³ (Khalidi 1997, 83, 95)

⁵⁰⁴ (Khalidi 1997, 100)

“The First Aliyah: 1882-1903.” *The Jewish Virtual Library*. The American-Israeli Cooperative Enterprise. http://www.jewishvirtuallibrary.org/jsource/Immigration/First_Aliyah.html (accessed November 14, 2012). Land ownership in Palestine was transformed by the establishment of the Ottoman Land Code in 1858. With the new law, many savvy Arab merchants purchased large tracts of fertile land that had previously not had formal titles assigned to them. These new landowners did not live on or work the land; instead, they had the Arab peasants continue to live on and work the land, with the latter often not being aware of the changes in title to the land. In Khalidi’s *Palestinian Identity*, on pages 94-95, he describes the way the Ottoman Land Code was implemented and how it affected peasant land rights. “In lowland areas favorable to grain cultivation, however, the new law facilitated registration in the name of individual owners of agricultural land, most of which as state land, or *miri*, had never previously been privately registered and had been treated according to traditional forms of land tenure... The new law meant that for the first time a peasant could be deprived not of formal title to his land, which he had rarely held before, but of the right to live on it, cultivate it, and pass it on to his heirs, rights that had formerly been inalienable if taxes on *miri land* were paid regularly. Under the provisions of the 1858 law... communal rights of tenure were often ignored... as many peasants with long-standing traditional rights failed to register out of fear of taxation and other state exactions, notably conscription. Instead, village shaykhs, tax-collectors, and urban members of the upper urban classes, adept at manipulating or circumventing the legal process, registered large areas of land as their personal property.”

not yet established in the Middle East region, but national identities were emerging and growing, notably Palestinian Arab and Jewish identities.⁵⁰⁵

In 1897, the nature of the reasons for immigration to Palestine shifted with the advent of Zionism. As envisioned by its founder Theodor Herzl, the movement called for the Jewish return from exile to Zion (Jerusalem) and the establishment of a sovereign Jewish national homeland in Palestine.⁵⁰⁶ The Zionist Organization held its first annual congress that year, during which Jews articulated the aims of Zionism.⁵⁰⁷ Zionists made up a large part of the second wave of Jewish immigration, known as the second aliya, which lasted from 1904 to 1914. Jews fleeing persecution, particularly those from Russia, were also part of the second aliya.⁵⁰⁸

Khalidi points out that a popular Zionist concept was that there were few or no inhabitants in the land of Palestine, making it particularly suitable for Jewish settlement. A popular Zionist slogan of the era was “A land without a people for a people without a land.”⁵⁰⁹ When Zionist Jews arrived in Palestine, they set out to improve the land. However, unlike the Jews of the first aliya, the Zionists used exclusively Jewish labor and created Zionist land purchase and settlement agencies to facilitate the process. The result was the displacement of Palestinian Arabs that lived and worked on land but did not own it. Zionist Jews faced hostility by many Palestinian Arabs, who perceived Jewish immigration as a threat to their land. Jews created the Hashomer, a Jewish defense organization to defend the many new Jewish settlements.⁵¹⁰ This experience marks the beginning of the modern-day conflict between Israelis and Palestinians.

Not all of the Jewish immigrants from the first and second aliya settled permanently in Palestine. Notably, of the 30,000 Jews that immigrated to Palestine from Eastern Europe and Russia during the second aliya, 80 percent returned to Europe, in part due to the economic difficulties immigrants faced in Palestine.⁵¹¹ Nonetheless, the Jewish share of the population of Palestine increased, as can be observed in Table 1A. In 1890, Arab Muslims constituted 81 percent of the population, and Jews constituted eight percent. As a result of Jewish settlement in Palestine, by 1914, Jews made up 14 percent of the population and Arab Muslims made up 76 percent of the population.

⁵⁰⁵ (Khalidi 1997, 100)

⁵⁰⁶ (Khalidi 1997, 24, 120)

⁵⁰⁷ The Zionist Organization became the World Zionist Organization in 1960.

Mendelsson, David. “From the First Zionist Congress (1897) to the Twelfth (1921).” *Jewish Virtual Library*. The American-Israeli Cooperative Enterprise. <http://www.jewishvirtuallibrary.org/jsource/Zionism/firstcong.html> (accessed October 13, 2012).

⁵⁰⁸ (Khalidi 1997, 100)

⁵⁰⁹ (Khalidi 1997, 101)

⁵¹⁰ (Khalidi 1997, 105)

⁵¹¹ (Muslih 2005)

The press played an important role in educating Palestinians, immigrants, and Ottoman Parliament Officials about the Zionist project, which was not fully understood by most people at the time.⁵¹² While most Palestinians were unorganized peasants, some Palestinians held representation in the Ottoman Parliament and petitioned the Ottoman Empire to limit Jewish immigration and to stop land sales to Jews. They warned that the well-organized Zionist project would lead to continued purchases of Palestinian land, often from absentee landlords and many times unbeknownst to the native peasants living on and working the land, which would contribute to growing frustration amongst the Palestinian Arab peasants. One such Palestinian was Ruhi al-Khalidi, the representative of Jerusalem to the Ottoman Parliament. In May 1911, he informed the parliament of the extent of Zionist settlement in Palestine, and presented it as a threat and danger to Palestine. He suggested that, “The Jews are a great people and the country benefits from their expertise, wealth, schools and knowledge, but they should settle in other parts of the Empire and should acquire Ottoman nationality.”⁵¹³ The influx of Jewish settlement in Palestine and the Palestinian Arab reaction to it contributed to the formation of Arab and Palestinian identity and loyalties.

World War I

World War I led to political changes in the region. With Russian assent, in 1916 the British and French devised an understanding between themselves, in which they planned to divide Arab provinces of the Ottoman Empire should the Allies win the war. The plan became known as the Sykes-Picot Agreement, and within it, the British and French indicated they were prepared to recognize an independent Arab State or confederation of Arab States, with the British and French taking leading roles in administering the new state(s).

Soon afterwards, the British enlisted the help of Arabs to help overthrow the Ottoman Empire.⁵¹⁴ They did so in large part by promising Arabs independence in either the form of a group of Arab-majority states or a large Arab-minority state. With British reassurances on the question of independence, Arabs began revolting against the Ottoman Empire in June 1916. Complicating British promises to Arabs was the British decision to simultaneously provide support to the World Zionist

⁵¹² (Khalidi 1997, 119-144)

⁵¹³ *Lisan al-Hal*. “No. 6649.” May 18, 1911.

⁵¹⁴ WWI began on July 28, 1914 and lasted until November 11, 1918.

Organization, with hopes the support would attract Jewish sympathy for the Allied Forces.⁵¹⁵ The British government issued a formal statement of policy known as the Balfour Declaration of 1917, announcing British support for the creation of a national home for the Jewish people in Palestine.⁵¹⁶

Palestinian Arabs flatly rejected the Balfour Declaration on the grounds that Palestine was the national homeland of the existing Arab peoples populating the land. Columbia Professor Edward Said, a well-known Palestinian writer, said of the declaration:

“The declaration was made (a) by a European power, (b) about a non-European territory, (c) in a flat disregard of both the presence and the wishes of the native majority resident in that territory, and (d) it took the form of a promise about the same territory to another foreign group, so that this foreign group might, quite literally, make this territory a national home for the Jewish people.”⁵¹⁷

Three weeks following the Balfour Declaration, the Russian Bolsheviks released a copy of the Sykes-Picot agreement, embarrassing the Allied forces and upsetting Jews and Palestinian Arabs as plans were being made about their future without their consent.

In January 1918, US President Woodrow Wilson challenged the European-world order, which he considered to have contributed to World War I, and presented “fourteen points” for a postwar order. His 12th point read: “The Turkish portions of the present Ottoman Empire should be assured a secure sovereignty, but the other nationalities which are now under Turkish rule should be assured an undoubted security of life and an absolutely unmolested opportunity of autonomous development.”⁵¹⁸ These principles provided hope for Palestinian Arabs and other Ottoman-ruled Arab populations seeking independence.

The conflicting policies towards Arabs and statehood led to growing distrust of the Allied Forces among Arabs and prompted Palestinians to form a Palestine Arab Congress that met for the first time in January 1919. The Congress discussed the future of Palestine, and later the Congress communicated its concerns over the Balfour Declaration and unsuccessfully lobbied the British to repeal it.⁵¹⁹

⁵¹⁵ A 1924 internal British government memorandum stated, “It [the Balfour Declaration] was designed to enlist on behalf of the Allies the sympathy of influential Jews and Jewish organizations all over the world.”

⁵¹⁶ (Quigley, *Statehood of Palestine* 2010, 12-14)

See Appendix C for the full text of the Balfour Declaration.

⁵¹⁷ Said, Edward W. *The Question of Palestine*. New York: Times Books, 1979), 15-16.

⁵¹⁸ “Fourteen Points.” *Encyclopedia Britannica*. January 8, 1918.

<http://www.britannica.com/EBchecked/topic/215178/Fourteen-Points> (accessed December 3, 2012).

⁵¹⁹ (Quigley, *Statehood of Palestine* 2010, 19, 36)

When asked why self-determination might not be applied to the Arab inhabitants of Palestine, British Foreign Secretary, Arthur James Balfour, who issued the Balfour Declaration, wrote in February 1919:

“The weak point of our position of course is that in the case of Palestine we deliberately and rightly decline to accept the principle of self-determination. If the present inhabitants were consulted they would unquestionably give an anti-Jewish verdict. Our justification for our policy is that we regard Palestine as being absolutely exceptional; that we consider the question of the Jews outside Palestine as one of world importance and that we conceive the Jews to have an historic claim to a home in their ancient land; provided that home can be given [to] them without either dispossessing or oppressing the present inhabitants.”⁵²⁰

An armistice went into effect on November 11, 1918 that ended fighting and on June 1919, the Treaty of Versailles brought war between Germany and the Allied forces to a formal conclusion.

Palestinian Nationalism after World War I

Following World War I, Palestinian Arabs no longer held Ottoman loyalties. Faced with a threat to their homeland, nationalist sentiments and Arab loyalties grew while religious loyalties diminished. In the face of British and world policy favoring Jewish settlement in Palestine, Palestinian Arab objections grew and efforts to quell Jewish immigration increased. Arabs began to target British and Zionists forces. Some of the worst clashes were the riots in Jerusalem in 1920—which led to the formation of the Jewish paramilitary organization, the Haganah. Violent clashes continued throughout the 1920s.⁵²¹

The end of WWI led to the creation of the intergovernmental organization, the League of Nations. The League of Nations was responsible for administering territories on behalf of the League’s Mandate system that had previously been controlled by states of the Ottoman Empire that were defeated in WWI. Territories were designated as Class A, B or C Mandates. Class A mandates included Mesopotamia, Syria and Palestine. Class A mandates were given provisional independence, though they were still subject to administrative control by the French or British until the League of

⁵²⁰ Krämer, Gudrun. *A history of Palestine: From the Ottoman conquest to the founding of the state of Israel*. Princeton: Princeton University Press, 2008, 167.

⁵²¹ Khalidi, Rashid. *The Iron Cage: the story of the Palestinian struggle for statehood*. Boston: Beacon Press, 2006, 71.

Nations deemed they were ready for self-rule.⁵²² The Covenant of the League of Nations indicated, inter alia, that: "Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory."⁵²³

The Mandate for Palestine was issued by the British and Allied Forces in 1922. What made Palestine unique from other Class A Mandates was a clear British commitment to Zionist aims to establish a Jewish homeland in Palestine, in part due to strong influence by Zionist Organization leaders. The Mandate stipulated that the British government, with the support of the Principle Allied Powers, was in "favor of the establishment in Palestine of a national home for the Jewish people, it being clearly understood that nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities in Palestine." It further supported the creation of a Jewish agency to facilitate Jewish immigration to Palestine: "to secure the cooperation of all Jews who are willing to assist in the establishment of the Jewish National Home."⁵²⁴ The resulting Jewish Agency for Palestine actively facilitated Jewish immigration to Palestine.⁵²⁵

In 1923, the Treaty of Lausanne was signed, on the one hand, by the United Kingdom, France, Italy, Japan, Greece, Romania, and the "Serbo-Croat-Slovene" State and by Turkey on the other. The treaty formalized the dissolution of the Ottoman Empire, the enactment of the Palestine Mandate, and the British administration of the new State of Palestine.⁵²⁶ Documents from the period referred to the mandates as states. For example, an excerpt from Article 46 of the Treaty of Lausanne reads:

The Ottoman Public Debt... shall be distributed under the conditions laid down in the present Section between Turkey, the States in favour of which territory has been detached from the Ottoman Empire after the Balkan wars of 1912-13, the States to which the islands referred to

⁵²² (Quigley, *Statehood of Palestine* 2010, 29)

⁵²³ "The Covenant of the League of Nations: Article 22." *Yale Law School: The Avalon Project*. December 1924. http://avalon.law.yale.edu/20th_century/leagcov.asp#art22 (accessed April 3, 2012).

⁵²⁴ "The Palestine Mandate." *Yale Law School: The Avalon Project*. July 24, 1922. http://avalon.law.yale.edu/20th_century/palmanda.asp (accessed July 13, 2012).

⁵²⁵ The Jewish Agency for Palestine is synonymous with the Jewish Agency. Mendelsson, David. "Zionist Congress under the British Mandate." *Jewish Virtual Library*. The American-Israeli Cooperative Enterprise. <http://www.jewishvirtuallibrary.org/jsource/Zionism/zionman.html> (accessed October 29, 2012).

⁵²⁶ Martin, Lawrence, and John Read. *The Treaties of Peace 1919-1923*. Vol. 11. New York: Carnegie Endowment for International Peace, 1924.

in Articles 12 and 15 of the present Treaty and the territory referred to in the last paragraph of the present Article have been attributed, and the States newly created in territories in Asia which are detached from the Ottoman Empire under the present Treaty. All the above States shall also participate, under the conditions laid down in the present Section, in the annual charges for the service of the Ottoman Public Debt from the dates referred to in Article 53.”⁵²⁷

Out of the Mesopotamia Mandate, Iraq gained formal independence in 1932, and from the Syria Mandate, Lebanon gained independence in 1943 and Syria in 1946. The situation on the ground in Palestine was complicated because of competing interests and the British continued administering the Mandate. John Quigley notes that Great Britain’s role in the Palestine Mandate did not negate statehood. He says, “Palestine, under “tutelage,” had the capacities of a state, even as the exercise of those capacities rested with Great Britain as the mandatory power.”⁵²⁸

Throughout the 1920s, Jewish immigration to Palestine increased as did deadly violence between the British troops, Jewish immigrants and Palestinian Arabs. In addition to finding each other to be a threat, Jews and Arabs protested British rule. While the British had originally supported Jewish immigration to Palestine, the rate of immigration was higher than they had anticipated and in light of the violence, the British tried to limit immigration. However, British and Arab efforts to quell Jewish immigration were met with violence by the Haganah and large scale Jewish immigration to Palestine continued.⁵²⁹ As shown in Table 1A, by 1931, Jews made up 17 percent of the population of Palestine and Muslims made up 74 percent of the population.⁵³⁰

While Palestinian nationalist aims were developing, but not yet clearly articulated, two mainstream Zionists factions existed at the time and had developed dramatically different visions for a state. Labor Zionists wanted a socialist state in which Jews and Arabs would live and work together, and Revisionists wanted a state in all of Palestine and east of the Jordan River (Transjordan) for the Jewish people and excluding Arabs. Voluntary or compulsory transfer of the Palestinian Arabs or war would be necessary to make the Revisionists’ vision a reality.⁵³¹

Despite espousing the same national goals and holding the same frustrations over Jewish immigration to Palestine, Palestinian leadership was polarized in the 1930s between the feuding

⁵²⁷ (Martin and Reed 1924)

⁵²⁸ (Quigley, *Statehood of Palestine* 2010, 248)

⁵²⁹ Flapan, Simha. *Birth of Israel: Myths and Realities*. New York: Pantheon Books, 1987, 25.

⁵³⁰ Table 1A is in Appendix A: The Land of Israel Before the First Aliya.

⁵³¹ (Flapan 1987, 20-21, 40)

Nashashibi and Husayni families.⁵³² The British had boosted the power of the Husayni family when it decided to retain the religious position of Mufti of Jerusalem from the Ottoman Empire. The post was renamed as the Grand Mufti of Palestine and its authority was expanded. Hajj Amin al-Husayni was chosen for the position and also delegated as the president of Supreme Muslim Shari'a Council. An unlikely candidate in his mid-twenties, Husayni was from a largely secular background, having served in the Ottoman army throughout WWI. In exchange for recognition and status, the Mufti was expected to be loyal to the British interests, which Husayni largely honored throughout the 1920s.⁵³³

The Arab Revolt

A decade after the Mandate system was put into place, Palestinians sought to end British rule, in what the Israeli historian Simha Flapan considers a reflection of a burgeoning Palestinian national consciousness. By the mid-1930s, the Mufti Husayni shunned his loyalties to British interests and instead supported the increasingly popular Palestinian nationalist demands. With mounting Palestinian nationalist sentiments and demands for an end to Jewish immigration, in the spring of 1936, the five leading Palestinian clans, including the Nashibis and Husseinis, came together to form the Arab Higher Committee (AHC). So began the Arab Revolt. During the first phase, a general strike ensued and was marked by the nonpayment of taxes, with Arab workers and businesses calling for an end to Jewish immigration. Led by urban students, the six-month strike engaged various groups of Palestinian society, with Muslims, Christians and Druze participating. While the AHC originally supported the strike, there was internal dissension over the direction of the strike, and some landowners wanted it to end when it was time to harvest citrus crops.⁵³⁴

With exhausted resources, the strike eventually ended in the fall of 1936, and despite calls by the AHC to remain peaceful, rural Arab communities led a violent resistance movement targeting British forces known as the 1936-1939 Arab Revolt in Palestine.⁵³⁵ This was the strongest effort made by Palestinian Arabs to seek independence and to halt Jewish immigration to Palestine. The British enlisted the help of Jewish settlers to defeat the Arab revolt and provided the Jewish

⁵³² (Khalidi, *The Iron Cage* 2006, 8)

⁵³³ (Khalidi, *The Iron Cage* 2006, 56-62, 81)

(Flapan 1987, 61)

⁵³⁴ (Flapan 1987, 62-63)

(Khalidi 1997, 53)

⁵³⁵ (Flapan 1987, 63)

enlistments with arms and training.⁵³⁶ The British lost control of major cities, requiring an influx of additional British military personnel.⁵³⁷

During the Arab Revolt, the British government authorized the Palestine Royal Commission, headed by Earl Peel, to investigate the causes of the strike and the Arab uprising. The Peel Commission Report that followed contained suggestions for changes to the British Mandate of Palestine. Most significantly, the commission found Jewish and Arab interests irreconcilable and suggested the partition of Palestine into a Jewish state, a small British mandate area and an Arab state united with Transjordan.

The Arab Higher Committee wanted a state in all of historic Palestine and did not support partition. Palestinian Arabs rejected the plan in August 1937. In reaction to the official rejection of the plan by the AHC, the British banned the AHC and its members were arrested or exiled. The Mufti fled and eventually settled in Germany.

Some Zionists, notably the chairman of the executive committee of the Jewish Agency for Palestine and eventual first prime minister of Israel, David Ben-Gurion, supported the Peel Commission partition plan, insisting it was an opportunity for Jews to have sovereignty over a territory, strengthen Jewish moral and political claims to the land and could be a step toward achieving a state in all of Palestine. The Twentieth Zionist Congress, on the other hand, officially rejected the Peel Commission and its findings “that Jewish and Arab aspirations were irreconcilable and that the existing Mandate was unworkable.”⁵³⁸

The Arab Revolt was met with harsh resistance by the British, and as a result by the time it was over in September 1939, “over 10 percent of the adult male [Arab] population was killed, wounded, imprisoned, or exiled” with Jewish and British casualties a fraction of those sustained by Palestinian Arabs.⁵³⁹

Simha Flapan says the general strike and Arab Revolt were “the first significant reflection of the developing Palestinian national consciousness.”⁵⁴⁰ Because many Palestinian leaders either fled after the revolt or were exiled by the British, the revolt was devastating to Palestinian leadership and Palestinian nationalism.⁵⁴¹ As a leader of the Palestinian national movement, Hussayni had become a

⁵³⁶ Beinun, Joel. “Is Terrorism a Useful Term in Understanding the Middle East and the Palestinian-Israeli Conflict?.” *Radical History Review*, no. 85 (2003): 12-23, 16.

⁵³⁷ (Khalidi 1997, 189)

⁵³⁸ (Flapan 1987, 20)

⁵³⁹ (Khalidi, *The Iron Cage* 2006, 108)

⁵⁴⁰ (Flapan 1987, 18)

⁵⁴¹ (Khalidi 1997, 190)

threat to British and Zionist interests. The British government sought to arrest him for his role in the general strike and uprising but he fled.

The Revolt resulted in a significant policy reversal by the British government, which issued the White Paper of 1939 setting limits on Jewish immigration. The British government conceded that the Peel Commission suggestions were unworkable and instead called for the creation of an independent Palestinian state within ten years to be governed by Palestinian Arabs and Jews. On the grounds that the British had fulfilled its commitment to allowing Jewish immigration to make a Jewish national homeland in Palestine, the policy paper set limits on Jewish immigration and set limits on the rights of Jews to buy land from Palestinians.⁵⁴² The implementation of the White Paper turned out to be impractical and impossible to enforce, largely because of the political realities of the era.

World War II and Immediately After

German and other European Jews were increasingly fearful for their property and lives as Germany's Nazi Party leader Adolph Hitler social agenda began to unfold. Prior to and during World War II, which began in 1939, many Jews fled their European homelands in search of safety from what was thereafter known as the Holocaust. In part because many countries, including the U.S., restricted or prevented Jewish immigration, many Jews resorted to immigration to Palestine in numbers exceeding the legal quotas held by the British.⁵⁴³ The massacre of six million Jews during the Holocaust strengthened the resolve of the Jewish settlers to establish a safe haven for Jews worldwide in the historic Kingdom of Israel, and instilled a very security-driven mentality within the Jewish community.

In Palestine, some Zionist groups violently rebelled against British rule and its policies on immigration. Jewish immigration to Palestine was possible through the efforts of underground Zionist military organizations such as the National Military Organization (Irgun), the Hagana and the LEHI (Israel Freedom Fighters).⁵⁴⁴

The Arabs had assisted the British during WWI by revolting against the Ottoman Empire in exchange for promises of independence. As independence remained elusive for many Arab states, their loyalties shifted to the Axis powers. Simha Flapan explains: "Motivated both by longstanding

⁵⁴² (Flapan 1987, 22-23)

⁵⁴³ Pappé, Ilan, *The Making of the Arab-Israeli Conflict*. New York: Tauris & Co. Ltd., 1992, 9.

⁵⁴⁴ (Pappé, *Making of the Arab-Israeli Conflict* 1992, 21)

anti-British sentiment and by the belief that the Axis powers would be victorious, many Arab leaders...tried to cut their ties with Great Britain and collaborate with Germany in the hope that after the war they would be in a position to liberate the Middle East from British domination.”⁵⁴⁵ With German promises of Arab Independence, from Berlin, Husayni “engaged in German propaganda and attempted to mobilize Yugoslavian Muslims for the German Army.”⁵⁴⁶ In light of the Mufti’s support of Hitler, the AHC was stigmatized.

By the war’s end, approximately six million Jews were killed by Hitler and his allies.⁵⁴⁷ The genocide of the Jewish people played a key role in Jews’ determination to establish a secure homeland. In 1942 Zionist leaders met at the Biltmore Hotel in New York City. Known as the Biltmore Conference, the AHC sought unlimited Jewish immigration to Palestine and announced the goal of establishing a Jewish state in Palestine.⁵⁴⁸ Due to a tremendous influx of Jewish immigrants to Palestine and their resolve for a Jewish state, a state for Arabs seemed less likely.

In 1945 the United Nations (UN) was formed and it effectively assumed the role in Palestine the League of Nations had held until it dissolved in 1946.⁵⁴⁹ Arabs and Jews, along with the world’s leading superpowers—the US, the Soviet Union and key European countries—were particularly interested in a solution to growing political pressures from Jews and Arabs who by that time were both actively seeking a state in Palestine. In 1945, the Arab League created a political committee that was made up of Arab heads of state who were tasked with handling the Palestine problem. While the AHC had been dissolved by the British government during the Arab Revolt, it had reemerged and dissolved several times, due to internal divisions. In 1946, it reemerged for the fourth time, and in ensuing years it was often at odds with the Arab League’s political committee.⁵⁵⁰

Faced with ongoing turmoil in Palestine, in May 1947, the British requested that the UN make recommendations for the future of Palestine. In response, the UN formed the United Nations Special Committee on Palestine (UNSCOP) to investigate the challenges in Palestine and to offer a solution. Zionist groups cooperated with the UNSCOP, meeting and discussing options for the future of Palestine. Jewish participation in the investigation was organized, efficient and diplomatic. During discussions, some influential Zionist leaders began distancing themselves from the Biltmore program

⁵⁴⁵ (Flapan 1987, 24)

⁵⁴⁶ (Flapan 1987, 63)

⁵⁴⁷ See *The Holocaust-Historical Overview* at <http://www.knesset.gov.il/shoah/eng/ehashoah.htm> for a discussion on the Holocaust.

⁵⁴⁸ (Pappé, *Making of the Arab-Israeli Conflict* 1992).

(Flapan 1987, 67)

⁵⁴⁹ The League of Nations was created primarily to prevent war and settle international disputes.

⁵⁵⁰ (Pappé, *Making of the Arab-Israeli Conflict* 1992, 25)

(Flapan 1987, 66)

and explored alternative options for the future of Palestine, including partition of the land for the Jewish and Arab peoples. Conversely, the AHC did not cooperate with and even protested the UNSCOP, underestimating its importance. The AHC held an uncompromising position, insisting that an independent Arab state in all of Palestine was a self-evident right, as Arabs populated the majority of the land.⁵⁵¹ Although the Jewish share of the population had grown to 32 percent, with 60 percent of the population of Palestine in 1947, Muslims still constituted a clear majority.⁵⁵² While the AHC refused to meet with the UNSCOP, the Arab League's political committee met with the UNSCOP in July 1947 and made unyielding and unrealistic demands. The Arab committee wanted to end Jewish immigration and land purchases and sought the establishment of a Palestinian Arab state and rejected political Jewish representation as part of the state. Eventually, in the critical days before the UNSCOP revealed its recommendation, the Arab committee relented and suggested an Arab state with a unitary government, giving the Jewish population protected minority status and political representation.⁵⁵³

The UNSCOP confirmed that both Arab and Jewish national aspirations were valid and entertained many ideas for the future of Palestine. The most popular options were the creation of a bi-national state, and partition of the land into an Arab and Jewish state. With some support from Great Britain, King Abdullah of Jordan advocated halting Jewish immigration and creating a Greater Syrian state that would incorporate Syria, Palestine and Jordan, which he would rule. Arabs warned the UNSCOP against partition, insisting this option would lead to war between Arabs and Jews. Complicating the crucial task of the UNSCOP, the British government announced it would not support a solution that was not accepted by both sides and would not be responsible for implementing the UNSCOP recommendations. This worrisome development indicated the British were ready to leave Palestine and skirt the responsibility of implementing a solution. The British threat was alarming to the UNSCOP and other key world leaders including the US and the Union of Soviet Socialist Republics (USSR).⁵⁵⁴

Despite British threats and significant reservations amongst committee members that indicated Jewish and Arab claims to the land were irreconcilable, the UNSCOP published its recommendations on September 8, 1947. The UNSCOP recommended ending the British Mandate and establishing two independent states in the land of Palestine. Further recommendations included

⁵⁵¹ (Pappé, *Making of the Arab-Israeli Conflict* 1992, 23)

⁵⁵² See Table 1A.

⁵⁵³ (Pappé, *Making of the Arab-Israeli Conflict* 1992, 26)

⁵⁵⁴ (Pappé, *Making of the Arab-Israeli Conflict* 1992, 22-23)

the internationalization of Jerusalem as a holy city open to all and an economic union between the two states. The Jewish Agency supported the partition plan and Jewish involvement and influence during the process is reflected in the details of the partition plan. The partition allocated 55 percent of mandatory Palestine for a Jewish state, with two-thirds of the coastline of Palestine. Following the recommendation, on September 26, the British announced it would end the Palestine Mandate.

On November 29, 1947, the UN General Assembly implemented a critical policy reversal toward Palestine by narrowly passing Resolution 181. Also known as the Partition Plan for Palestine, the resolution was a manifestation of the UNSCOP recommendations and called for an end to the British Mandate by August 1, 1948 along with the establishment of an Arab and Jewish state side by side by October 1, 1948.⁵⁵⁵ The AHC and Arab League insisted the plan was unfair and rejected it. On grounds that Arabs constituted a significant majority of the population and were the native inhabitants of the land whereas the vast majority of Jews were newly arrived refugees, they wanted a single Arab state in all of Palestine.⁵⁵⁶ The less powerful Palestinian–Arab communist political party, The National Liberation League in Palestine, was an exception and supported partition.⁵⁵⁷

Upon the UN General Assembly vote, fighting erupted in Palestine between Jewish and Arab communities. Known as the 1947-1948 Civil War, disorganized Palestinian Arabs suffered many military defeats against the Jewish military forces. Jews captured large portions of Palestine, including Jaffa and Haifa, both major Arab cities. Khalidi reflects: “Their [Jewish] decisive victories over the Palestinians brought about the wholesale flight and expulsion of much of the Arab population of Palestine, beginning a demographic transformation of the country with long-lasting consequences.”⁵⁵⁸

The UN was to oversee the transitional period until both states were created but this did not happen as the partition plan proved to be problematic, divisive and impossible to implement. In March 1948, the British reaffirmed it would not enforce the partition plan and announced the Mandate would end May 15, 1948. In response to British reluctance to implement the plan and fighting in Palestine, the US retracted its support and suggested instead a UN trusteeship for Palestine. On March 25, President Harry S. Truman stated:

"Unfortunately, it has become clear that the partition plan cannot be carried out at this time by peaceful means...The United Kingdom has announced its firm intention to abandon its

⁵⁵⁵(Muslih 2005)

⁵⁵⁶ (Flapan 1987, 57-58)

⁵⁵⁷ Beinín, Joel. Was the red flag flying there? : *Marxist politics and the Arab-Israeli conflict in Egypt and Israel, 1948-1965*. Berkeley and Los Angeles: University of California Press, 1990, 48.

⁵⁵⁸ (Khalidi 1997, 178)

mandate in Palestine on May 15. Unless emergency action is taken, there will be no public authority in Palestine on that date capable of preserving law and order. Violence and bloodshed will descend upon the Holy Land. Large-scale fighting among the people of that country will be the inevitable result. Such fighting would infect the entire Middle East and could lead to consequences of the gravest sort involving the peace of this Nation and of the world.”⁵⁵⁹

The failure of the partition plan had considerable consequences for the Palestinian case for statehood. While the majority of Palestinian Arabs were insistent on a state in all of Palestine, by rejecting the partition plan, they forfeited a historic opportunity to gain independence and in part of Palestine.

The British began withdrawing their personnel prior to the end of the Palestine Mandate. John Quigley contends that Palestinian statehood was not negated by the departure of the British. He said: “As Britain withdrew from Palestine after World War II, the international community, through Article 80 of the UN Charter, preserved rights that had been accorded under the mandate, including the statehood of Palestine. Palestine statehood was not renounced, nor was it extinguished. Egypt and Jordan protected sectors of Palestine. The League of Arab States assumed an ancillary role in preserving Palestine statehood.”⁵⁶⁰

With no agreed upon alternative to the partition plan, Jewish leaders declared the independent State of Israel on May 14, 1948, the day before the British Mandate was to end. The unilateral declaration, which notably did not specify territorial borders, ended negotiations with Arabs and the international community. Not specifying borders left open the opportunity to expand Israeli borders beyond those in the partition plan. This strategically undermined the viability of a future Palestinian state as Jewish forces were able to capture far more land than they would have been allocated through previously considered agreements.

Jewish leaders understood the implications of unilaterally declaring an Israeli state, as Arab leaders had previously stated partition would lead to regional war. Despite the regional ramifications, this bold move prompted immediate recognition of the State of Israel by the U.S.⁵⁶¹

Palestinian Arabs did not recognize the Israeli state as legitimate and called for its destruction.⁵⁶² On May 15, 1948, the Secretary-General of the League of Arab States, Abdul Razek

⁵⁵⁹ “A Decade of American Foreign Policy 1941-1949. United States Proposal for Temporary United Nations Trusteeship for Palestine: Statement by President Truman, March 25, 1948.” *Yale Law School: The Avalon Project*. http://avalon.law.yale.edu/20th_century/decad167.asp (accessed December 4, 2012).

⁵⁶⁰ (Quigley, *Statehood of Palestine* 2010, 248)

⁵⁶¹ (Quigley, *Statehood of Palestine* 2010, 101-102)

Azzam Pasha, sent a cablegram to the UN Secretary-General outlining the Arab states' rejection of the two-state plan and their intention to intervene to protect Palestinians' lives and property and create a "United State of Palestine." The cablegram highlighted Arab support of the Allies in WWI including:

"The Arabs have constantly been seeking their freedom and independence...the Arabs sided with the Allies and placed all their means at their disposal and in fact fought with them for the realization of their national aspirations and their independence...such a solution was prejudicial to the rights of the Arab inhabitants of Palestine to independence and was contradictory to democratic principles and to the League of Nations as well as the United Nations Charter."⁵⁶³

Small and disorganized Egyptian, Iraqi, Transjordanian, Lebanese and Syrian armies immediately entered the disputed territory, marking the beginning of the 1948 Arab–Israeli War. King Abdullah of Transjordan posed the most significant challenge to their effort. Motivated by hopes of territorial expansion and in secret collusion with Jewish leaders, the Transjordanian army at times operated independently from other Arab armies.⁵⁶⁴ From the start, the combined Arab armies were smaller than Israeli forces and were exceedingly underprepared for a confrontation. In addition to no command structure and little coordination and conflicting aims among the armies, Arab soldiers were not experienced in battle and were under equipped in comparison with Israeli soldiers.⁵⁶⁵

The UN immediately attempted but failed to establish a ceasefire to the fighting. Israel won decisive victories and hostilities officially ended when Israel signed armistice agreements with Egypt, Lebanon, Jordan and Syria in 1949. During the war, there was an exodus of more than 700,000 Palestinian Arabs, who largely settled as refugees in neighboring Arab countries and in the West Bank and Gaza Strip.⁵⁶⁶ Some resettled as far away as Chile.⁵⁶⁷ Many had intentions of returning to their homes once calm was restored.

The fighting resulted in a single Israeli state with borders extending beyond those called for in UN Resolution 181 and the remaining land, including the West Bank and Gaza Strip, were

⁵⁶² (Flapan 1987, 186)

⁵⁶³ Pasha, Abdul Razek Azzam. *Cablegram from the Secretary-General of the League of Arab States to the Secretary-General of the United Nations*. UN Doc. S/745, United Nations, 1948.

⁵⁶⁴ (Pappé, *Making of the Arab-Israeli Conflict* 1992, 131)

⁵⁶⁵ (Flapan 1987, 189-199)

⁵⁶⁶ (Said 1979, 17)

⁵⁶⁷ Much controversy surrounds whether Palestinians left willingly, fled or were expelled during the war, though it is generally accepted that it was a combination of all three in part based on fear during the turmoil. The mass exodus of Palestinians, beginning with the 1947 civil war, is known by Palestinians as "al-Nakbah" or the catastrophe.

occupied by Jordan and Egypt and remained a Palestinian Arab state, but lacked independence.⁵⁶⁸ Jordan occupied the West Bank and East Jerusalem and annexed them, while Egypt occupied the Gaza Strip. Palestinians in Transjordan were given Transjordanian nationality, while Egypt did not annex the territory nor give Palestinians Egyptian nationality.⁵⁶⁹ The remaining Palestinians in the new State of Israel (less than 200,000) faced a tumultuous new reality and were given Israeli citizenship and barred from expressions of Palestinian identity.⁵⁷⁰ Israeli historian Tom Segev reflects on their new reality: “As Israeli citizens, they were entitled to vote and run for the Knesset, but they were not Israelis with equal rights, or equal duties. Very few served in the IDF. The state viewed them as a security risk, and since Israel’s establishment they had been subject to martial law.”⁵⁷¹

The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights hold that the right of return to one’s own place of origin is a human right. The UN reaffirmed this right by passing Resolution 194 on December 11, 1948, affirming the right of Palestinian refugees to return to their homes and property.

Nonetheless, Israel enacted measures to prevent Palestinians from returning to their homes and property. The Absentees’ Property Laws, the Land Acquisition Law of 1953, the Law for the Requisitioning of property in Time of Emergency of 1949 and the Prescription Law of 1958 allowed the Jewish National Fund to expropriate Arab land. Coupled with the Israeli Law of Return, which allows Jews worldwide to settle in Israel and gain Israeli citizenship, Israel acquired the depopulated land and facilitated the settlement of Jewish communities in place of Palestinian communities.⁵⁷²

The denial of the right of return to Palestinians compounded hostilities between Israelis, Palestinians and neighboring Arab countries. Fledgling Arab countries did not have the capacity or desire to absorb the newly arrived Palestinian refugees, and many Palestinians have remained in refugee camps since the 1948 war, with the support of the UN, which created a specialized agency for Palestinian refugees, the UN Works and Relief Agency for Palestinians in the Near East. The war

⁵⁶⁸ (Khalidi, *The Iron Cage* 2006, 37-38)

The Emirate of Transjordan, encompassing an area east of the Jordan River, was part of the British Mandate of Palestine but was administered autonomously from 1921 to 1946 and was excluded from Jewish settlement stipulations.

⁵⁶⁹ Oren, Michael B. *Six Days of War: June 1967 and the Making of the Modern Middle East*. New York: Oxford University Press, 2002, 6.

(Khalidi, *The Iron Cage* 2006, 190)

⁵⁷⁰ (Khalidi 1997, 179)

⁵⁷¹ The IDF is the acronym for the Israeli Defense Forces.

Segev, Tom. *1967: Israel, the War, and the year that transformed the Middle East*. New York: Metropolitan Books, 2005, 67.

⁵⁷² (Said 1979, 105)

also had a significant impact on Jewish populations. It is important to note that 1948 marked the beginning of a Jewish exodus from Arab and Muslim countries. In the coming decades, hundreds of thousands of Jews left, fled, or were expelled from their homes in Arab countries and settled in Israel.⁵⁷³

Palestinian National Aspirations after 1948

In 1949, Israel was accepted as a state by the international community through its acceptance as a member state of the UN. The experience and failures of the 1948 Arab-Israeli War and the newly established State of Israel solidified Palestinians' resolve to establish a nation state of their own. These events, however, made the pursuit much more difficult as Palestinians had suffered a major defeat and were subsequently geographically dispersed. Nonetheless, Palestinian nationalism persisted. For many, the goal was not only the creation of a Palestinian state, but the destruction of the newly formed State of Israel with the hopes of establishing a Palestinian state in its place, covering all of the territory in the former Palestine Mandate.

Palestinian refugees were seen as a burden and threat to their host countries. Subsequently, however, some host countries allowed them significant freedom in organizing and making demands for repatriation to Israel. This organization process included electing representatives of the refugee population and setting up committees, establishing contacts in governments and philanthropic organizations worldwide, and launching media campaigns.⁵⁷⁴

Whereas during the first part of the twentieth century, Palestinian nationalism was expressed through the struggle against Zionism and Great Britain, beginning in the 1950s, it was expressed through a network of Palestinian nationalistic organizations made up of members of the Palestinian Diaspora. Competing nationalist ideologies were prevalent. King Abdullah of Jordan continued to advocate for the creation of a Greater Syrian state while Arab nationalism and Pan-Arabism led to calls for the unification of Arab states into one single nation or unions between some Arab states.⁵⁷⁵ The president of Egypt, Gamal Abdel Nasser, was the chief advocate of Arab nationalism—thus the ideology became known as Nasserism.⁵⁷⁶ Militant Islamic fundamentalism with aims to liberate

⁵⁷³ (Pappé 2004)

⁵⁷⁴ (Flapan 1987, 218)

⁵⁷⁵ (Khalidi 1997, 180)

⁵⁷⁶ (Oren 2002, 13)

Palestine was introduced in the 1950s, but gained less support amongst Palestinians than other secular ideologies.⁵⁷⁷

The Establishment of the PLO

While Arab regimes gave Palestinian refugees freedom to organize themselves and make demands of Israel, they began feeling the pressure of Palestinian demands. In 1964, representatives of Palestinian Arab communities convened in Jerusalem, and with the support of the Arab League, formed the Palestine National Council (PNC) to represent the dispersed Palestinian people. Tasked with serving as a policy-making body, the PNC created the Palestine Liberation Organization (PLO) to serve as its governing body. The PNC also created the Palestine Liberation Army (PLA) to protect and extend territory in Palestine by force.⁵⁷⁸ The creation of the PLO was a defeat for King Hussein as it reduced the likelihood his plans for a Greater Syria would succeed. Representative bodies were immediately set up throughout the Arab world. One of the PLO's first activities was adopting the Palestinian National Charter in 1964.⁵⁷⁹ The creation of the PLO signaled an organized expression of Palestinian nationalism.

The Emergence of Fatah

One of the most notable Palestinian nationalist organizations came into existence in 1959 when members of the Palestinian Diaspora, most notably Yasser Arafat, founded the nationalist revolutionary movement "Palestinian National Liberation Movement," which is known as Al-Fateh. More widely known as Fateh or Fatah, the aim of Fatah was to unify stateless Palestinians, liberate historic Palestine by armed struggle and establish a Palestinian state in the place of Israel. Along with a central committee that served as the leading political body and a revolutionary council that serves as the decision-making body, Fatah originally included militant and terrorist groups.⁵⁸⁰

Khalidi reflects on the early Palestinian nationalist organizations and concludes that they had unrealistic aims: "Some of them unreflectively talked of "liberating" Palestine. This meant restoring an Arab Palestine that had never been a sovereign state, and whose social basis was irrevocably gone with the flight of over half the Palestinian people and the expropriation of most of their land."⁵⁸¹

⁵⁷⁷ (Khalidi 1997, 148)

⁵⁷⁸ (Amundsen and Ezbidi 2004, 154)

⁵⁷⁹ (Muslih 2005, 369)

⁵⁸⁰ GlobalSecurity.org. "Al-Fatah." GlobalSecurity.org. November 7, 2011.

<http://www.globalsecurity.org/military/world/para/al-fatah.htm> (accessed December 1, 2012).

⁵⁸¹ (Khalidi, The Iron Cage 2006, 189)

From the 1960s to the mid-2000s, the Fatah movement was the dominant force in Palestinian politics and has always been the largest faction in the PLO. Over time, it shifted its focus from armed struggle to a diplomatic approach toward negotiating a two-state solution with Israel.

The 1967 War

Nearly two decades after the historic Palestinian exodus, Palestinian refugees continued to be perceived as a burden to Arab countries as Palestinians had not been compensated or permitted by Israel to return as stipulated under UN Resolution 194.⁵⁸² Palestinians in the West Bank were an exception. They had been given Jordanian citizenship, but like Palestinian refugees elsewhere, they had developed a common Palestinian identity and an articulated desire for a Palestinian nation state, so they, too were a burden to Jordan. Rising tensions between Israel, Palestinian nationalist organizations targeting Israel and neighboring Arab countries resulted in the 1967 Six-Day War, which was fought by Israel against Egypt, Jordan and Syria between June 5 and June 10, 1967. By war's end, Israel had won a decisive victory and occupied land in neighboring Arab countries. Israel captured the Sinai Peninsula and Gaza Strip from Egypt; the Shebaa farms from Lebanon; the Golan Heights from Syria; and the West Bank and East Jerusalem from Jordan. As the land was acquired and occupied by force, Israel assumed the position of a belligerent occupant. The International Court of Justice, UN Security Council, UN General Assembly and the Supreme Court of Israel have deemed Israel's position in the West Bank and Gaza Strip as a belligerent occupancy.⁵⁸³ Israel extended Israeli law to East Jerusalem, a move that proved to be a step towards Israel's eventual annexation of East Jerusalem, a violation of a belligerent occupancy.⁵⁸⁴ The international community became involved, and on November 22, 1967, the United Nations Security Council passed resolution 242, which called for the following actions:

1. Withdrawal of Israel armed forces from territories occupied in the recent conflict;
2. Termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force."⁵⁸⁵

Currently, all sides of the Israeli-Palestinian conflict generally cite UN Security Council Resolution 242 as the basis for peace, though it has been a contentious resolution. The PLO initially

⁵⁸² UN General Assembly Resolution 194 was passed in December 1948 and affirmed that Palestinian refugees should be permitted to return to their homes, known as the "right of return."

⁵⁸³ (Quigley, *Statehood of Palestine* 2010, 219)

⁵⁸⁴ (Quigley, *Statehood of Palestine* 2010, 135)

⁵⁸⁵ See Appendix D for the full text of UN Security Council Resolution 242.

rejected the resolution, partly on grounds that it did not recognize Palestinian rights for self-determination, and partly because the PLO continued to call for the liberation of Palestine and was not satisfied with the liberation of merely the West Bank, Gaza Strip and East Jerusalem. The revised Palestinian National Charter was adopted in 1968 and called for the total liberation of all of the former Mandate of Palestine. It also stipulated that only Jews “who had normally resided in Palestine until the beginning of the Zionist invasion” would be allowed to stay in the democratic secular State of Palestine the PLO aimed to establish.⁵⁸⁶

Despite explicit Israeli support of UN Security Council Resolution 242, there was and continues to be implicit opposition. On May 1, 1968, Israel accepted the resolution, though it did not withdraw from the West Bank and Gaza Strip (WBGS). Instead, Israel assumed various functions of governance in the Gaza Strip and the West Bank, while allowing a combination of local Palestinian institutions, including Islamic courts, to continue to exist, and allowed Jordan to continue to pay the salaries of employees in public service and charitable society institutions.⁵⁸⁷

Some Israelis favored using the land as leverage, hoping to exchange the land for peace with Arab neighbors and with Palestinians.⁵⁸⁸ Others indicated Israel should keep the WBGS, which would create a buffer and security zone between Israel and her neighbors.⁵⁸⁹ More Israelis supported the latter position and soon Israelis began moving to the occupied West Bank, Gaza Strip, Golan Heights and East Jerusalem to build settlements in an effort to create a “defense line,” violating the laws accorded to a belligerent occupier.⁵⁹⁰ The laws governing the behavior of a belligerent occupant include the Hague Conventions of 1907, the Fourth Geneva Convention of 1949 and customary human rights laws. Specifically, the UN Security Council, UN General Assembly, International Committee of the Red Cross, International Court of Justice and the High Contracting Parties to the Convention agree that the Fourth Geneva Convention applies in this situation.⁵⁹¹ Article 49 of the

⁵⁸⁶ “The Palestine National Charter.” *Jewish Virtual Library*. The American-Israeli Cooperative Enterprise. July 17, 1968. http://www.jewishvirtuallibrary.org/jsource/Peace/PLO_Covenant.html (accessed July 1, 2012). (Khalidi 1997, 192)

⁵⁸⁷ (Quigley, *Statehood of Palestine* 2010, 189)

⁵⁸⁸ The “land for peace” model was implemented with Egypt. In 1979, with significant American influence, Israel and Egypt signed a peace treaty, which included mutual recognition, the cessation of violence and the return of the Sinai Peninsula to Egypt.

⁵⁸⁹ (Said 1979, 204)

⁵⁹⁰ (Oren 2002, 314)

(Quigley, *Statehood of Palestine* 2010, 136)

⁵⁹¹ Quigley, John. “The Relation Between Human Rights Law and the Law of Belligerent Occupation: Does an Occupied Population have a Right to Freedom of Assembly and Expression?” *Boston College International and Comparative Law Review* 12, no. 1 (1989).

Fourth Geneva Convention of 1949 forbids a state from deporting or transferring "parts of its own civilian population into the territory it occupies."⁵⁹² The United Nations General Assembly and the Security Council have cited Israel's transfer of its population into the territories as a violation of international laws. One of the first resolutions to state this was UN Security Council resolution 446, which stated that the settlement policy was not only unlawful but "a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East."⁵⁹³ Further, Israel annexed East Jerusalem, a move the UN first admonished through UN Security Council Resolution 476 stating: "all legislative and administrative measures and actions taken by Israel, the occupying Power, which purport to alter the character and status of the Holy City of Jerusalem have no legal validity and constitute a flagrant violation of the Fourth Geneva Convention."⁵⁹⁴

Israel maintains that the Fourth Geneva Convention does not apply in this situation, citing that the territories are "disputed" and not "occupied" because it claims the West Bank and Gaza Strip were not taken from a recognized sovereign state during the 1967 War, but rather from Jordan and Egypt that had occupied the lands. Therefore, Israel claims that the building of settlements in the disputed territories is in accordance with international law.⁵⁹⁵ The movement of Israeli population into the occupied territories threatens the viability of an independent Palestinian state.⁵⁹⁶

The Evolution of the PLO following the 1967 War

Arab states had originally sought to control the PLO in an effort to contain Palestinian pressures. Further, key Palestinian nationalist organizations originally rebuffed the PLO. However, Palestinians were disillusioned by Arab failures in the Six-Day War, and moved further away from Arab nationalism. The PLO grew in strength, as more secular Palestinian groups gave credence to and joined the PLO including Fatah in 1967 and the Popular Front for the Liberation of Palestine in

"ICRC." *Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land* (The Hague). October 18, 1907. <http://www.icrc.org/ihl.nsf/full/195> (accessed December 2, 2012).

(Convention (IV) 1949)

⁵⁹² (Convention (IV) 1949)

⁵⁹³ "UN Security Council Resolution 446." *Institute for Middle East Understanding*. March 22, 1979.

<http://imeu.net/news/article006250.shtml> (accessed November 14, 2012).

⁵⁹⁴ "United Nations Security Council Resolution 276." *UNISPAL*. August 20, 1980.

<http://unispal.un.org/UNISPAL.NSF/0/6DE6DA8A650B4C3B852560DF00663826> (accessed September 12, 2012).

⁵⁹⁵ Israeli Ministry of Foreign Affairs. "Israel, the Conflict and Peace: Answers to frequently asked questions."

Israeli Ministry of Foreign Affairs. November 1, 2007. <http://www.mfa.gov.il/MFA/FAQ/Israel-%20the%20Conflict%20and%20Peace-%20Answers%20to%20Frequen> (accessed October 4, 2012).

⁵⁹⁶ (Quigley, *Statehood of Palestine* 2010, 136)

1968, shaping the PLO's Palestinian-centric character. Hence, Arab governments enjoyed less control over Palestinian affairs and Palestinians nationalist demands were more unified.⁵⁹⁷ The PLO was neither Arabist nor Islamist, but rather espoused secular Palestinian nationalism and had popular support.⁵⁹⁸ The war reinvigorated the Palestinian cause because Israel now not only existed in what Palestinians perceived to be their land but also occupied lands where Palestinians lived. Khalidi reflects on the PLO's creation and development: "Although it was thus initially not an independent actor, the Arab states quickly lost control of it, as it was refashioned by these organizations into the primary vehicle of Palestinian nationalism, a process which was completed by 1968."⁵⁹⁹

In 1970, an unruly faction of PLO guerrilla forces, the PFLP, led a series of aircraft hijackings and some even aimed to overthrow the Jordanian Monarchy. The Hashemite Kingdom of Jordan reacted by driving the PLO out of Jordan in a conflict known as Black September, leading to the entrenchment of the PLO in the West Bank and Lebanon.⁶⁰⁰ Although demographically dispersed and not always unified in vision, the PLO has persisted throughout the years, surviving conflicts in Jordan and Lebanon and conflicts with Israel.

Since its inception, the military wing of the PNC carried out violent attacks against Israel in an effort to end the occupation.⁶⁰¹ Faced with an entrenched Israeli occupation of the West Bank and Gaza Strip and given Israel's military strength, Palestinian nationalist aims gradually shifted.⁶⁰² In the 1970s, Palestinians, led by PLO chairman Yasser Arafat, began exploring options in addition to armed struggle, the latter of which had failed them miserably. Palestinian political leaders began advocating a diplomatic effort to negotiate a peaceful solution to the Israeli-Palestinian conflict to achieve recognition of a Palestinian state.⁶⁰³ The PLO was increasingly viewed as the representative of the Palestinian people as is evidenced by its acceptance into international organizations of states such as the Economic Commission for Western Asia, an organ of the UN.⁶⁰⁴ In 1974, at an Arab summit that year, the PLO was deemed to be the sole legitimate representative of the Palestinian

⁵⁹⁷ (Khalidi 1997, 260)

⁵⁹⁸ (Khalidi, *The Iron Cage* 2006, 192)

⁵⁹⁹ (Khalidi 1997, 260)

⁶⁰⁰ Muslih, Muhammad. "Yasir Arafat." In *Encyclopedia of the Palestinians*, by Philip Mattar, 57-71. Facts on File, 2005.

⁶⁰¹ (Khalidi, *The Iron Cage* 2006, 207)

⁶⁰² (Khalidi, *The Iron Cage* 2006, 192)

⁶⁰³ (Said 1979, 163)

⁶⁰⁴ (Quigley, *Statehood of Palestine* 2010, 137)

people and it became a member of the Arab League, which contributed to the PLO shifting its primary work from Arab countries into the occupied territories.⁶⁰⁵

Large segments of Palestinian society were adjusting to the reality that they would have to give up the failing struggle for a state in all of historic Palestine and instead work towards liberating the West Bank, East Jerusalem and Gaza Strip to establish a Palestinian state in 22 percent of Mandate Palestine, later termed the “two state solution.” The historic shift in Palestinian nationalistic aims eventually made Palestinians a more attractive negotiating partner to Israel and have influenced subsequent peace efforts.⁶⁰⁶

The UN took notice of the PLO’s growing legitimacy and began putting in place resolutions supporting Palestinian statehood, and invited the PLO to take an active role in the UN with a permanent observer status. In many ways, the UN was treating the PLO as the representative of a Palestinian state.

While the PLO officially explored diplomacy and peace, many of its groups continued to engage in armed struggle against Israel in an effort to liberate Palestine. During the 1970s and 1980s, the PLO’s popular support, representative status, organization and attacks on Israel posed a threat to Israel, so Israeli forces routinely targeted its members. In 1976, the PLO held municipal elections in the West Bank, and PLO candidates won the majority of seats whereas pro-Jordanian candidates had dominated in the past. Seen as a threat, Israel reacted harshly towards the PLO candidates, many of whom were imprisoned or expelled by Israel.⁶⁰⁷ During the 1978 US-brokered Camp David Accords between Israel and Egypt, efforts were made to legitimize Palestinians’ right to self-determination. But despite widespread recognition of the PLO as the sole representative of the Palestinian people, at this time, the US and Israel were not willing to accord the PLO this status.⁶⁰⁸

By the late 1970s, many Palestinians felt the PLO’s diplomatic efforts had yet to bring about real political change. The PLO’s shift towards compromise and acceptance of a two-state solution, which meant the acceptance of an Israeli state, alienated some of its previous supporters, who continued to engage in armed struggle against Israel. Islamic groups, such as the Palestinian Islamic Jihad (Al-Jihad), which was formed in 1979, quickly filled the vacuum created by the PLO’s failure to end the occupation and its shift in ideology.

⁶⁰⁵ Said, Edward W. “Intifada and Independence.” In *Intifada: the Palestinian Uprising Against Israeli Occupation*, edited by Zachary Lockman and Joel Beinin. Boston: South End Press, 1989, 9.

⁶⁰⁶ (Khalidi, *The Iron Cage* 2006, 207)

⁶⁰⁷ GlobalSecurity.org. “PLO-Jordanian Relations.” GlobalSecurity.org.
http://www.globalsecurity.org/military/world/para/plo_jordan.htm (accessed December 1, 2012).
(Said, *Intifada and Independence* 1989, 5-22)

⁶⁰⁸ (Quigley, *Statehood of Palestine* 2010, 140-141)

While secular Palestinian nationalism was and continues to be the most popular political ideology amongst Palestinians, Islamic groups were growing in strength, in part due to the PLO's ineffectiveness. Islamic factions, Khalidi writes, "subsume Palestinian nationalism within one or another form of Islamic identity."⁶⁰⁹ According to Said, "They offer...one intellectual and cultural alternative to the conventional one [the secular PLO]."⁶¹⁰ Said points out the Islamic groups oppose both US-style values and Israel, treating the latter as an occupying force that must be dealt with by force.

The First Intifada, Hamas, and Peace Talks

In 1987, a combination of a frozen political process between Israelis and Palestinians; expanding Israeli settlements; expropriation of land in the occupied territories; and restricted access to water and other resources culminated in a popular uprising spanning the West Bank and Gaza Strip, which aimed to bring about an end to the Israeli occupation, including a full Israeli withdrawal from the WBGS and Palestinian independence. While the uprising was initially characterized by nonviolent civil disobedience and protests, it became violent, with Israeli soldiers using force against Palestinian protestors and using force against Israelis. Further, Palestinians turned on other Palestinians, accusing them of collaborating with Israel. An estimated 1,491 Palestinians were killed by Israeli civilians and the Israeli military and another 1,000 Palestinians were killed by Palestinians as alleged collaborators with Israel. Approximately 185 Israelis were killed by Palestinians during the Intifada.⁶¹¹

The powerful Palestinian militant Islamist organization Islamic Resistance Movement (Hamas) emerged during the First Intifada in early 1988 as an offshoot of the world's most influential Islamist Movement, the Egyptian Muslim Brotherhood. Consisting of social, political and military wings, Hamas set out to liberate Palestine from Israeli occupation and use all means possible, including violence, to establish an Islamic state in the area that is now Israel, the West Bank and the Gaza Strip. Hamas did not recognize Israel's right to exist. The party grew in power in the

⁶⁰⁹ (Khalidi 1997, 148-149)

⁶¹⁰ (Said, *Intifada and Independence* 1989, 5-22)

⁶¹¹ Widmer, Mireille. "One year Al-Aqsa Intifada Fact Sheet and Figures." *The Palestinian Human Rights Monitor*, September 28, 2001.

B'Tselem. "Statistics: Fatalities in the first intifada." *B'Tselem*.

http://www.btselem.org/statistics/first_intifada_tables (accessed December 2, 2012).

Gaza Strip, as its civil welfare services were essential to Palestinians suffering from Israeli attacks.⁶¹² Notably, Hamas did not join the PLO, but rather found itself, “competing with the PLO over the identity, direction, and leadership of the Palestinian society.”⁶¹³ Hamas differs from Fatah in that it does not believe that engaging in negotiations with Israel will bring about a recognized Palestinian state, and it has denounced the concessions Fatah party leaders have made with Israel.

Media coverage of the events during the First Intifada resulted in worldwide concern for the harsh Israeli military retaliation towards the Palestinian uprising and ultimately, advanced Palestinians’ aim of self-determination.⁶¹⁴ While the First Intifada was characterized by violence, the PLO actually moderated and shifted towards working with Israelis diplomatically to achieve a peaceful solution to the Israeli-Palestinian conflict. Avi Shlaim argues that the “success of the intifada gave Arafat and his followers the confidence they needed to moderate their political program.”⁶¹⁵

The PLO reacted to popular demands for an end to the Israeli occupation by preparing to declare a Palestinian state. Jordan reacted to this development by retracting its claim to the West Bank, which meant that Palestinians in the West Bank no longer held Jordanian citizenship and Jordan discontinued paying 21,000 salaries of individuals working in charitable societies. Notably, the Jordanian government continued to pay for the salaries of 2,000 staff taking care of religious and holy sites.⁶¹⁶ As part of a Palestinian peace initiative, on November 15, 1988 the PLO’s Palestine National Council (PNC) adopted a declaration of independence on all Palestinian land captured by Israel during the 1967 Six-Day War, including the West Bank, East Jerusalem and Gaza Strip.⁶¹⁷ The declaration announced the existence of a Palestinian state and suggested it was a state based on the Treaty of Lausanne and the Covenant of the League of Nations.⁶¹⁸ The declaration cited UN General

⁶¹² The European Union, and countries such as the US, Canada, Israel and Japan classify Hamas as a terrorist organization and the UN and nations such as Russia, Turkey and Switzerland do not. “Hamas Charter.” *The Jerusalem Fund*. 1998. <http://www.thejerusalemfund.org/www.thejerusalemfund.org/carryover/documents/charter.html> (accessed September 21, 2012).

⁶¹³ Mattar, Philip, *Encyclopedia of the Palestinians*. New York: Facts on File, 2000, 158.

⁶¹⁴ Shlaim, Avi. *The Iron Wall: Israel and the Arab World*. London: Penguin, 2000, 83.

⁶¹⁵ (Shlaim 2000, 466)

⁶¹⁶ Challand, Benoit. *Palestinian Civil Society: Foreign Donors and the Power to Promote and Exclude*. New York: Routledge, 2009, 79-80.

⁶¹⁷ See the full text of the Palestine Declaration of Independence at <http://www.thejerusalemfund.org/www.thejerusalemfund.org/carryover/documents/Independence15.html>.

⁶¹⁸ With the implementation of the Treaty of Lausanne on August 6, 1924, the Ottoman Empire relinquished control of the provinces of the Ottoman Empire and the Palestine Mandate went into effect, with the British administering the new provisional State of Palestine. (Martin and Reed 1924)

Assembly Resolution 181, calling for the partition of Palestine and the establishment of two independent states. The next month at the UN, Arafat recognized UN Resolution 242, recognized the State of Israel and presented further details of the Palestinian peace initiative.⁶¹⁹ Further, the PLO accepted all UN resolutions relating to the Israeli-Palestinian conflict. The initiative sought UN intervention in Palestine to supervise the withdrawal of Israeli forces from the WBGS, indicating the PLO would “work to reach a comprehensive peaceful settlement between the sides involved in the Arab-Israeli struggle, including the State of Palestine and Israel, as well as the other neighboring states, within the framework of an international conference for peace in the Middle East...”⁶²⁰

The Declaration of Independence resulted in recognition of a State of Palestine by about 100 countries and the establishment of varying levels of diplomatic relations with these states and new interaction in the form of “general delegations” with other states. In particular, the US initiated dialogue for the first time with the PLO. The UN reacted by passing a resolution to affirm Palestinians’ rights to exercise sovereignty in the Palestinian Territories and designated the name Palestine instead of PLO as the name of their observer status at the UN. While the State of Palestine gained recognition by a majority of the world’s states, the declaration did not bring about an end to the Intifada or recognition of a Palestinian state by Israel and the U.S.⁶²¹ The declaration revealed, however, that the PLO was willing to accept a two-state solution as a framework for peace talks with Israel and Israel came to view Palestinians as a people with a unique identity, though it did not accept the PLO as the representative of the Palestinian people.⁶²²

After the declaration of independence, the PLO began functioning more like a governing body in the WBGS. Yasser Arafat was selected to serve as president of Palestine by the PLO’s Central Council, the PLO signed important treaties on behalf of the State of Palestine and the PLO applied to join many multilateral organizations.⁶²³

The Covenant of the League of Nations indicated, inter alia, that: “Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory.”

(The Covenant of the League of Nations: Article 22 1924)

(Quigley, *Statehood of Palestine* 2010, 153-157)

⁶¹⁹ (Mattar 2000)

⁶²⁰ (Muslih 2005)

⁶²¹ (Quigley, *Statehood of Palestine* 2010, 153-163)

⁶²² (Quigley, *Statehood of Palestine* 2010, 165)

⁶²³ (Quigley, *Statehood of Palestine* 2010, 165)

Following Arafat's proclamation and amidst the Intifada, Israel presented a peace initiative in 1989 that was based on the Camp David Accords. Notably, the initiative outlined four non-negotiable basic premises, including:

- a. Israel yearns for peace and the continuation of the political process by means of direct negotiations based on the principles of the Camp David Accords.
- b. Israel opposes the establishment of an additional Palestinian state in the Gaza district and in the area between Israel and Jordan.
- c. Israel will not conduct negotiations with the PLO.
- d. There will be no change in the status of Judea, Samaria and Gaza other than in accordance with the basic guidelines of the Government.⁶²⁴

The initiative addressed Israel's stance towards Palestinian statehood aspirations in the context of an overall Middle East peace settlement. With regards to Palestinians, the initiative aimed to improve refugee conditions through international efforts and outlined a plan for Palestinian elections and interim self-rule for a period of five years leading to a permanent solution. While Israel's peace initiative was not accepted or implemented at that time, it was referenced and used in subsequent peace initiatives.

⁶²⁴ Israel Ministry of Foreign Affairs. "Israel's Peace Initiative." *Israel Ministry of Foreign Affairs*. May 14, 1989. <http://www.mfa.gov.il/MFA/Peace%20Process/Guide%20to%20the%20Peace%20Process/Israel-s%20Peace%20Initiative%20-%20May%2014-%201989> (accessed November 18, 2012).

APPENDIX B

The Case for Palestinian Statehood

Introduction to Palestinian Statehood Claims

Throughout the decades, Palestinians have expressed a desire for a nation-state in many ways, while their vision for the territorial dimensions of a Palestinian nation-state and methods to achieve it have varied. In recent decades, Palestinians have increasingly used diplomatic means to seek recognition of a Palestinian state in a reduced portion of their ancestral homeland—in the West Bank and Gaza Strip. The majority of governments worldwide have recognized an occupied Palestinian state in the West Bank and Gaza Strip; however, some countries still do not recognize a Palestinian state.⁶²⁵ Palestinians hope that a recognized Palestinian state will result in security for the Palestinian people; space for Palestinian refugees to return; increased chances for an end to the Israeli occupation and independence; and more favorable terms in a peace agreement with Israel. For example, as a state, Palestine could be integrated into the international system and could sign the four Geneva conventions of 1949 on warfare, join the UN, apply for membership to the UN Human Rights Council, and become party to the Statute of the International Court of Justice. These opportunities would provide the PLO with a means to secure rights for the Palestinian people, and would increase its accountability regarding the treatment of Palestinians and others to these bodies governing bodies.⁶²⁶ In order to understand Palestinian claims to statehood, it is important to clarify what constitutes a state and how an entity becomes a recognized state.

What Constitutes a State?

A professor of law and human rights at the Moritz College, John Quigley addresses statehood issues in his 2010 book, *The Statehood of Palestine*. Quigley identifies a fundamental dilemma for Palestine with regards to statehood. He writes, “Strange as it may seem, the international community has not developed hard and fast rules about statehood.”⁶²⁷ There are no specific conventions or treaties that have been created to regulate the process of an entity becoming a state. Further, there is

⁶²⁵ One hundred and thirty eight of the world’s 195 independent states recognize a state of Palestine. (United Nations General Assembly 2012)

⁶²⁶ (Quigley, *Statehood of Palestine* 2010, 249-250)

⁶²⁷ (Quigley, *Statehood of Palestine* 2010, 4)

no organization responsible for granting an entity definitive statehood status. Nonetheless, it is possible to recognize patterns when observing the paths that entities have followed to become recognized states. These patterns should be considered in order to apply the lessons to the case of Palestine.

The 1933 Montevideo Convention on the Rights and Duties of States is widely cited as containing relevant statehood criteria. At the time the convention was created during the Seventh International Conference of American States, 19 states signed the convention. The convention was signed in the context of an effort to get the US to respect the territorial integrity of Latin American states.⁶²⁸ While the convention was not created for the purpose of providing statehood criteria, the international community loosely relies on points in the convention relating to statehood. The relevant statehood criteria are in Article 1 and Article 3 of the Convention. Article 1 states, “The state as a person of international law should possess the following qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states.”⁶²⁹ Sovereignty and independence are attributes that most states have, though these attributes are not criteria for statehood as defined above.

How Entities Become Recognized as States

Article 3 of the Montevideo Convention states: “The political existence of the state is independent of recognition by the other states.”⁶³⁰ While entities may be a state without recognition, for practical purposes such as negotiating trade arrangements with other states, it is important to gain statehood recognition by other states. Article 7 of the Montevideo Convention holds: “The recognition of a state may be express or tacit. The latter results from any act which implies the intention of recognizing the new state.”⁶³¹ Accordingly, aspiring states seek both express and tacit recognition from other states to build legitimacy. Quigley notes the importance the international community plays in legitimizing an entity as a state. In cases where it is not clear if an entity meets all criteria in the Montevideo Convention, recognition can override the criteria. For example, Quigley

⁶²⁸ (Quigley, *Statehood of Palestine* 2010, 206)

⁶²⁹ For a complete discussion on sovereignty, see pages 6-7 in John Quigley’s book *The Statehood of Palestine*.

⁶³⁰ “Montevideo Convention on the Rights and Duties of States.” *Council on Foreign Relations*. December 26, 1933. <http://www.cfr.org/sovereignty/montevideo-convention-rights-duties-states/p15897> (accessed December 20, 2012).

⁶³¹ (Montevideo Convention 1933)

states “legitimacy as endorsed by the international community plays an important role in the acknowledgment of statehood and sometimes overrides an ineffectiveness of control.”⁶³²

In practice, states generally extend statehood recognition when: (i) extending recognition is a politically viable option and (ii) the entity meets most or all of the criteria in the Montevideo Convention. The relevance of political viability was captured by UN Secretary-General Trygve Lie, who in 1950 said, “While States may regard it as desirable to follow certain legal principles in according or withholding recognition, the practice of States shows that the act of recognition is still regarded as essentially a political decision, which each State decides in accordance with its own free appreciation of the situation.”⁶³³ With no law requiring states to recognize other states based on certain criteria, attaining statehood recognition is often a gradual process that requires an entity to promote itself as a viable state to other states. Further, there is no established threshold for the number of states that must recognize an entity to legitimize its claim to statehood. As such, many entities are widely regarded as states, despite the fact that they do not enjoy universal recognition by all governments.

Because statehood is a condition of membership to the UN and its agencies, many aspiring states apply to be a member state of the UN or its agencies. The UN downplays its role in state recognition by insisting, “The United Nations is neither a State nor a Government, and therefore does not possess any authority to recognize either a State or a Government.”⁶³⁴

In reality, however, an entity’s claim to statehood is greatly substantiated when it is accepted as a member of the UN, though individual states may continue to withhold formal recognition. Quigley acknowledges this saying, “Membership in the United Nations... may be taken as evidence of statehood, since admission to membership involves a judgment that the entity is a state.”⁶³⁵ Even if an entity is not accepted as a member of the UN, there is still a motivation to apply as the result is often increased recognition by individual governments of that entity as a state. Entities may resubmit a UN membership application if they do not immediately gain acceptance.

States with varying levels of recognition may seek acceptance into the UN and UN agencies. UN membership “is open to all peace-loving States that accept the obligations contained in the United Nations Charter and, in the judgment of the Organization, are able to carry out these

⁶³² (Quigley, *Statehood of Palestine* 2010, 238-239)

⁶³³ (Quigley, *Statehood of Palestine* 2010, 231)

⁶³⁴ “Member States: About UN Membership.” *United Nations*. <http://www.un.org/en/members/about.shtml> (accessed December 1, 2012).

⁶³⁵ (Quigley, *Statehood of Palestine* 2010, 234)

obligations.”⁶³⁶ The multi-step process of UN state recognition requires a state to submit an application to the UN in which it accepts the obligations under the UN Charter. At least four of the ten non-permanent UN Security Council Members and all of the five permanent Security Council members must recommend the state’s acceptance. Then, at least two-thirds of the UN General Assembly must vote in favor of accepting the new state to the UN.

Acceptance into the UN as a state is political in nature. Acceptance is not certain for states, even if they are widely perceived to have met Montevideo statehood criteria and are recognized as a state by many UN member states. Acceptance is even less certain for an entity which may not fully meet Montevideo statehood criteria and or has limited statehood recognition by states and international bodies. The permanent UN Security Council members wield great power. They can and have used their veto power when a legitimate state has submitted an application to become a member state of the UN. The political nature of statehood recognition is brought to light in instances where states are accepted in specialized UN agencies, where the international community can vote in favor of accepting a state without threat of a Security Council veto, but the state is not accepted as a member of the UN.

Paths to Statehood

Each entity’s path to becoming a recognized state is unique. However, it is possible to observe the paths that have been taken to recognized statehood and the influence the UN had during the process and compare the path to that the Palestinians are taking to legitimize their statehood claims. Since seeking acceptance as a state to the UN or its specialized agencies advances an entity’s legitimate claims to statehood, many entities seek this recognition, even if there is ambiguity as to whether they meet all of the Montevideo statehood criteria. For example, Ukraine and Belorussia were constituent republics of the USSR when they applied to the UN and to UN agencies. Both entities had limited control over foreign relations and domestic policy and were lacking independence, but both gained admittance to the UN and UN agencies. India and the Philippines were admitted as members of the UN in 1945. While lacking independence at the time they were admitted as members, both gained independence within the following two years.⁶³⁷ Notably,

⁶³⁶ (Member States: About UN Membership n.d.)

⁶³⁷ (Quigley, Statehood of Palestine 2010, 236-239)

“Member States of the United Nations.” *United Nations*. <http://www.un.org/en/members/> (accessed December 1, 2012).

Lithuania was admitted to the UN before attaining individual state recognition by the major powers.⁶³⁸ When Bosnia applied and was accepted as a member of the UN, it did not yet have effective control of its territory as it had just declared independence from Yugoslavia. Monaco represents a unique situation in that it is a microstate with a unique relationship with France, and it does not maintain effective control of its territory. However, despite having “few citizens, little territory, and little control of domestic or foreign policy,” Monaco has been admitted to the UN and its agencies.⁶³⁹

Even after gaining acceptance as a state to the UN and obtaining further claims to legitimacy, many states continue to lack universal recognition by governments. There are many states with limited recognition that have gained admittance as a member state of the UN. This is true for the State of Israel, which was recognized by 159 of the 193 UN member states in 2012.⁶⁴⁰ Kosovo is not a member state of the UN, but 77 UN member states recognize it and it holds member state status in other important international bodies such as the International Monetary Fund (IMF) and the World Bank. The State of Palestine is in a similar situation to Kosovo. While 91 countries have recognized a State of Kosovo, it has not been admitted to the UN.⁶⁴¹

Parallels can be drawn between Israel’s admittance to the UN and Palestinians’ present-day quest for UN membership. Israel declared independence on May 15, 1948 and was immediately engulfed in war. While some states recognized Israel’s independence and accepted it as a state, most notably the US and the USSR, it lacked widespread recognition. Nonetheless, Israel submitted an application to the UN in the fall of 1948. It did not receive the required unanimous UN Security Council votes to secure membership. Israel renewed its application in the spring and the UN Security Council approved the application despite permanent Security Council member Britain abstaining from the vote. Despite a requirement of an affirmative vote by all five Security Council members, the Security Council recommended the admission of Israel to the UN and presented its application to the UN General Assembly for consideration. On May 11, 1949, the UN General Assembly voted and Israel narrowly gained the two-thirds votes needed in to be admitted to the UN and the United

⁶³⁸ (Quigley, *Statehood of Palestine* 2010, 233)

⁶³⁹ (Quigley, *Statehood of Palestine* 2010, 239-240)

⁶⁴⁰ “Israel Ministry of Foreign Affairs.” *Israel’s Diplomatic Missions Abroad: Status of Relations*. October 2012. <http://www.mfa.gov.il/mfa/about%20the%20ministry/diplomatic%20missions/Israel-s%20Diplomatic%20Missions%20Abroad#note> (accessed December 2, 2012).

⁶⁴¹ “United Nations Visitors Centre—Fact Sheet: Becoming a New Member State of the United Nations.” *United Nations*. http://www.un.org/wcm/content/site/visitors/lang/en/new_memberstate/ (accessed December 5, 2012). Afifete Jahjaga: President of the Republic of Kosovo. 2013. <http://www.president-ks.gov.net/?page=2,54> (accessed January 4, 2013).

Nations General Assembly passed Resolution 273 resulting in the acceptance of Israel as a member state of the UN.⁶⁴²

Notably, Israel's acceptance was conditional upon its acceptance of UN General Assembly resolutions 181 and 194, which it accepted but has not yet implemented.⁶⁴³

Applying the Criteria: Is Palestine a State?

When the PLO proclaimed the establishment of the State of Palestine in 1988, it cited UN Resolution 181 as granting the Palestinians the right to sovereignty in Palestine and also mentioned the League of Nations Covenant of 1919 and the Treaty of Lausanne in 1923, which established the provisional State of Palestine. Following the proclamation, the PLO did not yet have control in the WBGS, though about 100 countries recognized a State of Palestine. Since the PLO's declaration of statehood in 1988, its claims to the land have been strengthened by exercising control over parts of the West Bank and Gaza Strip, a right accorded to the PLO through the Oslo Accords.⁶⁴⁴ Subsequent efforts by the PLO brought about further recognition of a State of Palestine by states and international bodies of states.

Initially following the declaration of statehood, the PLO did not have success acting as a state. For example, in 1989 the PLO attempted to ratify the four Geneva conventions of 1949 on warfare. The International Committee of the Red Cross said its application was not considered "due to the uncertainty within the international community as to the existence or non-existence of a State of Palestine."⁶⁴⁵

Since a significant number of states and international bodies of states have acknowledged and accepted a State of Palestine, it is appropriate to review the credentials for a state laid out in the Montevideo Convention: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states. Based on these criteria, it appears that a State of

⁶⁴² The UN General Assembly voted 37 in favor, 12 against with 9 abstentions of the resolution. "United Nations General Assembly Resolution 273 (III)." *Jewish Virtual Library*. The American-Israeli Cooperative Enterprise. May 11, 1949. <http://www.jewishvirtuallibrary.org/jsource/UN/unga273.html> (accessed December 1, 2012).

(Quigley, Statehood of Palestine 2010, 110-114)

⁶⁴³ (UN Resolution 273 (III) 1949)

UN Resolution 194 affirms that refugees should be permitted to return to their homes and property and UN Resolution 181 recommended the partition of Mandate Palestine into two states, one Jewish and one Arab.

⁶⁴⁴ Quigley, John. *The Case for Palestine: An International Law Perspective*. Revised and Updated. Durham: Duke University Press, 2005, 214.

⁶⁴⁵ "International Humanitarian Law: Geneva Conventions of 12 August 1949." *International Committee of the Red Cross*. 2005. <http://www.icrc.org/ihl.nsf/WebSign?ReadForm&id=375&ps=P> (accessed January 3, 2013).

Palestine exists.⁶⁴⁶ While Palestinian refugees and members of the Palestinian Diaspora live worldwide, there is and has been for centuries a permanent population in Palestine. While the PLO has not agreed on a territorial settlement with Israel, it does have a defined territory with varying levels of jurisdiction over the West Bank and Gaza Strip. The PLO manages governance functions and serves as the recognized and legitimate government of the Palestinian people, with the PA ruling in parts of the West Bank; but Hamas rules with restrictions in the Gaza Strip. Reconciliation between Fatah and Hamas and bringing Hamas under the PLO umbrella will enhance Palestinian unity and legitimacy. Further, not only does the PLO have the capacity to enter into relations with other states, it has done so regularly with the majority of the states in the world. The legitimacy of the existence of a Palestinian state is enhanced because it is widely recognized by countries.

A minority of states are not convinced that a State of Palestine exists. Some governments hold that the Palestinian entity does not fully meet all criteria in the Montevideo Convention or argue that a State of Palestine can only be achieved through a negotiated peace settlement with Israel. Critics cite Israel's belligerent occupancy over the WBGS as proof that the PA does not fully meet the control criterion of a government. Quigley argues that "the level of control exercised by the PNA would not need to be total or near total, in order to satisfy the control criterion." The fact that Israel exerts some control does not negate Palestine's claim to control over the area, according to Quigley.⁶⁴⁷ However, the PA's claim of sovereignty over the land is debatable. While no other countries claim sovereignty over the West Bank and Gaza Strip, Israel claims East Jerusalem. Further, Israel has placed the separation barrier in parts of the West Bank and more than 650,000 Israelis have moved into the West Bank and East Jerusalem.⁶⁴⁸

The UN has had a unique role in increasing the legitimacy of a Palestinian state. The UN General Assembly accorded Palestinians observer status to the UN in 1974, giving the PLO the right to participate in the general debate of the General Assembly, a privilege accorded to states.⁶⁴⁹ The PLO recognizes the value in being recognized as a state by the international community and has taken steps to increase its recognition. In 2011, the PLO sought to enhance their status by submitting an application to the UN to be considered for membership of the UN, which required a vote by the UN Security council, and the application was rejected. The process itself increased the legitimacy of

⁶⁴⁶ (Montevideo Convention 1933)

⁶⁴⁷ (Quigley, *Statehood of Palestine* 2010, 217-218)

⁶⁴⁸ (Quigley, *Statehood of Palestine* 2010, 219)

(Sherwood, *Population of Jewish settlements* 2012)

⁶⁴⁹ (Quigley, *Statehood of Palestine* 2010, 179-187)

the PLO and resulted in increased recognition by states such as Iceland, Uruguay, Peru, Brazil, Argentina, Bolivia, Ecuador, and Chile.⁶⁵⁰

Recognition is an important component in proving the legitimacy of a state. As such, it is important to note that as of October 2012, 138 of the world's 195 independent states recognize a state of Palestine.⁶⁵¹ Many other states have not accorded formal recognition of a Palestinian state but have accorded implicit recognition by engaging in diplomatic relations with the PLO. In addition to enjoying recognition by states, the State of Palestine has gained recognition by being permitted to join inter-state organizations and to sign onto treaties in the name of the PLO, Palestine or the PA. For example, the UN Asia-Pacific Group and the UN Economic and Social Commission for Western Asia, the League of Arab States and the Organization of the Islamic Conference admitted the State of Palestine as a member. Further, the EU agreed to a tariff agreement in the form of a treaty with the PLO.⁶⁵² In October, 2011, a State of Palestine was admitted to the UN Educational, Scientific and Cultural Organization (UNESCO) after having been denied membership in 1989.⁶⁵³ Most significantly, in 2012, the PLO sought to be recognized as a non-member sovereign state of the UN. The proposal was voted on by the General Assembly and passed with 138 in favor, 9 against, and 41 abstentions.⁶⁵⁴ The UN measure allows a State of Palestine to become party to the Statute of the International Court of Justice.⁶⁵⁵

As discussed, while the Montevideo criteria are an important set of criteria the international community generally references when determining an entity's statehood status, the decision ultimately lies with individual states and organizations.

Asserting Palestinian Statehood

⁶⁵⁰ Klochendler, Pierre. "Domino Effect? More Countries Recognize Independent Palestine." *Common Dreams: Building Progressive Community*. Inter Press Service. January 16, 2011. <https://www.commondreams.org/headline/2011/01/16-2> (accessed March 3, 2012).

AFP. "More than 100 countries recognize Palestine as a state." *Al Arabiya News*. December 15, 2011. <http://english.alarabiya.net/articles/2011/12/15/182782.html> (accessed December 3, 2012).

⁶⁵¹ United Nations. "United Nations GA/11317: General Assembly overwhelmingly accords Palestine 'non-member observer' state status in United Nations" *United Nations*. November 30, 2012. <http://unispal.un.org/unispal.nsf/0080ef30efce525585256c38006eacae/435e0f0c8b2262e485257ac6004f4d63?OpenDocument> (accessed December 11, 2012).

⁶⁵² (Quigley, *Statehood of Palestine* 2010, 179-181)

⁶⁵³ UNESCO. "UNESCO Director-General launches Emergency Fund at close of General Conference." *UNESCO*. UNESCO Press. October 11, 2011. http://www.unesco.org/new/en/media-services/single-view/news/unesco_director_general_launches_emergency_fund_at_close_of_general_conference/?cHash=c9897a271a7a6ad6d4df76f72426a96e (accessed November 3, 2012).

⁶⁵⁴ (United Nations General Assembly 2012)

⁶⁵⁵ (Quigley, *Statehood of Palestine* 2010, 250)

In 1993, through the Oslo Accords, the PLO and Israel committed to bilateral negotiations to resolve outstanding issues and bring about a two-state solution to the Israeli-Palestinian conflict. The parties have not come to agreement on outstanding issues and the Israeli occupation of the WBGS continues. While a final settlement hasn't been reached, the international community has increasingly recognized a State of Palestine. In an effort to gain legitimacy and strengthen its negotiating position with Israel, the PLO has actively adopted a different approach and strategy towards state recognition. Instead of solely focusing its efforts on negotiating a settlement with Israel, which has proved both difficult and largely unsuccessful, it has actively promoted itself as a state worthy of recognition.

The new approach of actively engaging the international community, "internationalization," has received positive and negative reactions. Discussing Israel's resistance to according statehood status to Palestinians, Quigley writes: "Palestine statehood removes the leverage Israel seeks to exercise over Palestine in negotiations. Israel has set parameters for a negotiated settlement that fall far below the minimum that the international community has regarded as permissible. Israel seeks to reserve for itself the right to grant Palestine statehood in order to gain concessions from the Palestinian side."⁶⁵⁶

Other states see the internationalization of the issue as an opportunity to advance Palestinian rights and the peace process. In recent years, the governments of Costa Rica and the Dominican Republic extended recognition to a State of Palestine and have displayed an understanding of the importance of a balance of power in a negotiated Israeli-Palestinian settlement. Quigley points out that in 2008, Costa Rica extended recognition of a Palestinian state and when urging other states to follow suit, the Costa Rican Foreign Minister Bruno Stagno Ugarte remarked that further recognition would place Palestinians, "in a position of greater symmetry vis-à-vis other parties to the conflict."⁶⁵⁷ The Dominican Republic had already extended recognition of Israel, and in 2009 President Leonel Fernandez expressed that his country was extending recognition of a Palestinian state to strike a "diplomatic balance" between Israel and Palestine."⁶⁵⁸

However, many of the world's most powerful states have withheld formal recognition of a State of Palestine. Of the five permanent members of the UN Security Council, only Russia and China have recognized, and established full diplomatic relations with, the State of Palestine. During a

⁶⁵⁶ (Quigley, *Statehood of Palestine* 2010, 249)

⁶⁵⁷ United Nations. "UN Security Council: S/PV.6123." *United Nations*. May 11, 2009. <http://unispal.un.org/UNISPAL.NSF/0/2ACF7DC9BCA3EDDC852575B4006F642D> (accessed April 22, 2012). (Quigley, *Statehood of Palestine* 2010, 248-249)

⁶⁵⁸ Dominican Today. "Dominican Republic strikes "diplomatic balance" with Israel, Palestine." *Dominican Today*. July 14, 2009. <http://www.dominicantoday.com/dr/world/2009/7/14/32597/Dominican-Republic-strikes-diplomatic-balance-with-Israel-Palestine> (accessed October 3, 2012).

November 2012 UN vote to determine if Palestine would become a non-member state of the UN, France voted favorably, Britain abstained from the vote, and the U.S. voted against the measure. Powerful states such as Britain, the U.S. and Germany insist that formal state recognition will only be accorded to Palestinians once the PLO has reached a negotiated settlement with Israel.⁶⁵⁹

Powerful international organizations have weighed in on the status of Palestinian statehood. In 2011, the IMF, World Bank and the Office of the United Nations Special Coordinator for the Middle East Peace Process (UNSCO) released reports indicating that these institutions do not yet recognize Palestine as a state, but have given legitimacy to the PA, relaying that the PA is ready to govern a State of Palestine. In 2011, the IMF declared “the PA is now able to conduct the sound economic policies expected of a future well-functioning Palestinian State.”⁶⁶⁰ The World Bank made similar declarations of support for a Palestinian State by stating that; “If the Palestinian Authority (PA) maintains its performance in institution building and delivery of public services, it is well-positioned for the establishment of a state at any point in the near future.”⁶⁶¹ A UNSCO report released in April 2011 showed similar confidence in a Palestinian state, stating: “In the limited territory under its control and within the constraints on the ground imposed by unresolved political issues, the PA has accelerated progress in improving its governmental functions. In six areas where the UN is most engaged, governmental functions are now sufficient for a functioning government of a state.”⁶⁶² In its dealings with these organizations, the PA has earned their stamp of approval with respect to statehood, furthering its claims to legitimacy and competency as a governing body of a State of Palestine.

Palestinians have insisted that negotiations have not helped Palestinians secure a recognized, independent state, and this, coupled with Israel’s refusal to halt settlement growth in the West Bank, is why they are pursuing an alternative course to statehood recognition.⁶⁶³

Israel and the U.S.

Despite the legitimacy accorded to a State of Palestine by a majority of governments, many of the world’s most powerful states—the US, Israel, and many European countries—have not yet accorded explicit recognition of a State of Palestine. Further, Israel and the US have resisted the

⁶⁵⁹ (United Nations General Assembly 2012)

⁶⁶⁰ (IMF 2011)

⁶⁶¹ (The World Bank 2011)

⁶⁶² (UNSCO 2011)

⁶⁶³ (United Nations General Assembly 2012)

PLO's efforts to involve the international community with regards to Palestinian statehood. Nonetheless, Palestinians continue to build their case as an entity deserving of statehood recognition—by seeking recognition from governments, by seeking membership in inter-state organizations and by signing onto treaties, all of which will further their legitimacy and enhance their claims to independence.

As explained in Chapter Two, in 1993, when Israel signed the Declaration of Principles (DOP) with the PLO, it recognized the PLO as the sole representative of the Palestinian people and ceded some but not all control of administration of the WBGS to the PLO. Both parties agreed to come to a negotiated peace settlement with a final arrangement on borders and administrative control within five years. Drawn out negotiations have not produced a final arrangement, and in 2011, Palestinians publically contemplated reasserting a State of Palestine and their independence in light of the failed negotiations and continued growth of Israeli settlements in the West Bank and Jerusalem. Israel countered that a unilateral assertion of independence would make the DOP void. Israeli Knesset member Danny Danon remarked that the Palestinian move would relieve Israel of “all the diplomatic, security, and economic commitments” that were made in the Oslo Accords and there was support within the Knesset for the GoI to extend Israeli sovereignty over all of the WBGS or annex parts of the West Bank.⁶⁶⁴ Israeli policies have supported and enforced this position. The U.S. government has been instrumental in supporting Israel’s position and has used its power to discourage recognition of a Palestinian state. In 2011 and 2012, the U.S. government warned against acceptance of Palestine as a member state to the UN, indicating it would withhold funds to the UN. Further, the U.S. has exerted extensive pressure on countries that have not recognized Palestine as a state, encouraging European governments to block the Palestinian UN bid.⁶⁶⁵

A few examples show Israel’s evolving position on the Palestine statehood issue. In 2007, at the Annapolis talks, Israel offered conditional support of a Palestinian state within the limited territory that the PA was administering in West Bank and Gaza Strip. Palestinians did not respond to the offer favorably, fearing this would compromise their claim to sovereignty to all of the land

⁶⁶⁴ Hoffman, Gil. “‘Annexation for declaration’ idea advancing in Knesset.” *The Jerusalem Post*. April 26, 2011. <http://www.jpost.com/DiplomacyAndPolitics/Article.aspx?id=217969> (accessed September 1, 2012).

⁶⁶⁵ Sherwood, Harriet. “US Warns European Governments against Supporting Palestinians at UN.” *The Guardian*. October 1, 2012. <http://www.guardian.co.uk/world/2012/oct/01/us-warns-europe-palestinians-un> (accessed December 14, 2012).

Swaine, Jon. “US ‘could withdraw funding from UN if Palestine state is recognized’.” *The Telegraph*. June 24, 2011. <http://www.telegraph.co.uk/news/worldnews/middleeast/palestinianauthority/8597559/US-could-withdraw-funding-from-UN-if-Palestine-state-is-recognised.html> (accessed December 14, 2012).

captured by Israel in 1967.⁶⁶⁶ Later in 2009, Israeli Prime Minister Netanyahu offered conditional recognition of a Palestinian state. He said, “If we are asked, which we are, to recognize the Palestinian state as the nation-state of the Palestinian people—and we are willing to do so—it is only natural that we ask our Palestinian neighbors to recognize the State of Israel as the nation-state of the Jewish people.”

This statement reveals the political nature of state recognition. While the GoI implied recognition of a Palestinian state, instead of asking Palestinians to recognize Israel as the nation-state of Israelis, it made recognition of a Palestinian state conditional on recognition of Israel as a Jewish state. While the PLO had already recognized the State of Israel in 1988, it refused to recognize the State of Israel as a Jewish state, which would mean recognizing one ethnic group amongst the many that make up Israeli society and possibly implying that Palestinians were willing to give up the right of return, which Palestinians consider protected under international law.⁶⁶⁷ This case of conditional recognition exemplifies how political considerations can influence a state’s decision to accord recognition of a state. In a speech in May 2012, the Israeli Defense Minister said that should a negotiated peace settlement with Palestinians “proves to be impossible, we have to consider a provisional arrangement or even unilateral action.”⁶⁶⁸ Unilateral action could include a withdrawal of Israeli forces from parts of the West Bank, “annexation of Israeli settlement blocs in the West Bank, military crackdowns and mass arrests.”⁶⁶⁹ Israel does not want the PLO to seek membership as a state to international bodies and insists this action is outside the realm of direct bilateral negotiations to bring about a recognized State of Palestine. Nonetheless, as stated earlier, in the fall of 2011, the PLO submitted an application to be a member of UNESCO to which Israel reacted by freezing the taxes and fees that it collects at the Palestinian borders and transfers to the PA, though it transferred them at a later date. This action violates the principles of the Paris Protocol and resulted in the PA’s normal revenues being temporarily slashed by two-thirds.⁶⁷⁰ Per a 1994 US law requiring the US to

⁶⁶⁶ (Quigley, *Statehood of Palestine* 2010, 196)

⁶⁶⁷ (Quigley, *Statehood of Palestine* 2010, 201)

⁶⁶⁸ Tiebel, Amy. “Israel’s Barak: ‘Unilateral Action’ on the table.” *Breitbart*. Associated Press. May 30, 2012. <http://www.breitbart.com/Big-Peace/2012/05/30/Israels-Barak--Weigh-unilateral-action> (accessed November 2, 2012).

⁶⁶⁹ (Tiebel 2012)

⁶⁷⁰ Reuters. “Israeli withholding of tax funds incapacitating PA.” *The Jerusalem Post*. November 24, 2011. <http://www.jpost.com/DiplomacyAndPolitics/Article.aspx?id=246899> (accessed December 11, 2012).

withdraw from and stop funding any UN entity which accepts Palestine as a member, in 2011, the U.S. withheld funding to UNESCO after Palestine was granted membership.⁶⁷¹

The U.S. has in some cases shown implicit recognition of a State of Palestine, though it has explicitly denied Palestinian statehood and uses its power as a world leader to discourage, with mixed success, other inter-state bodies and states from recognizing a State of Palestine. The grounds on which the US has denied recognition of the existence of a State of Palestine are twofold. U.S. courts have ruled that Palestinian statehood does not exist, citing a lack of sufficient control by a government (the PLO) and saying that its scope of control is limited by Israel. This is a clear reference to Montevideo statehood criteria. For practical reasons, however, the US accepts Palestinian passports that the PA issues, which identifies Palestinian nationality and could be viewed as implicit recognition of Palestinian statehood. The U.S. also permits a Palestinian General Delegation in Washington, D.C.⁶⁷²

On multiple occasions, the U.S. has used its power and leverage to prevent the PLO from being admitted to the UN and other world bodies of member states. When the PLO submitted an application to UNESCO in 1989, the US reacted by announcing it would not rejoin UNESCO if Palestine was admitted as a state, resulting in UNESCO's decision to defer the consideration of the PLO's application. When the PLO tried joining the World Health Organization (WHO) that same year, the US threatened to not pay its dues to the WHO if it accepted the PLO's application. Soon afterwards, the Arab League proposed a UN resolution to recognize an independent Palestinian State. The US reacted by threatening to withhold financing to the UN; thus, the resolution was abandoned.⁶⁷³

In late 2011, the US vetoed a UN resolution condemning Israel's West Bank settlements. Despite agreeing that Israeli settlements in Palestine are illegal, the US holds a position that the UN is not the appropriate venue to address the issue. The US Congress threatened to withhold financial aid to the Palestinians had the US not vetoed the measure in the UN Security Council.⁶⁷⁴

The US has vetoed multiple times UN Security Council resolutions condemning Israeli actions as having a negative impact on the Israeli-Palestinian peace process and therefore the quest for Palestinian statehood. In September 2011, the PLO risked financial retaliation by Israel and the

⁶⁷¹ Clemons, Steve. "Fake Progress vs. Real Progress in Palestine." *The Atlantic*. November 12, 2011. <http://www.theatlantic.com/international/archive/2011/11/fake-progress-vs-real-progress-in-palestine/248370/> (accessed November 29, 2012).

⁶⁷² (Quigley, *Statehood of Palestine* 2010, 211-214)

⁶⁷³ (Quigley, *Statehood of Palestine* 2010)

⁶⁷⁴ (Associated Press 2011)

U.S. to pursue membership in the UN. The US vowed it would veto the Palestinian application and urged other states to do so as well.⁶⁷⁵ The US Congress withheld \$200 million in promised external assistance to the PA for pursuing membership in the UN.⁶⁷⁶

In reaction to the 2012 Palestinian statehood bid at the UN, members of the U.S. Senate introduced three amendments to the National Defense Act aimed at preventing the PA from using the International Criminal Court and to prevent UN members from upgrading the PLO's status at the UN. If passed, the amendments will require that the U.S. cut contributions and aid to the UN and to the PA if the aforementioned initiatives are explored at the UN or International Criminal Court.⁶⁷⁷

It is clear the U.S. and Israel will go to great lengths to prevent a State of Palestine from being recognized outside of the parameters of direct, bilateral negotiations.

⁶⁷⁵ "US Vetoes of UN Resolutions Critical of Israel: (1972-2011)." *Jewish Virtual Library*. The American-Israeli Cooperative Enterprise. <http://www.reuters.com/article/2011/09/08/us-palestinians-israel-mitchell-idUSTRE78771O20110908> (accessed January 3, 2013).

⁶⁷⁶ BBC News. "US Congress freeze on \$200m Palestinian aid criticized." *BBC News: Middle East*. October 4, 2011. <http://www.bbc.co.uk/news/world-middle-east-15163640> (accessed October 15, 2012).

⁶⁷⁷ Friedman, Lara. "Examining the 3 Palestinian-Punishment Focused Efforts in the Senate." *Americans for Peace Now*. November 29, 2012. http://peacenow.org/entries/examining_the_3_palestinian-punishment_focused_efforts_in_the_senate#.UL80uOQ8CSp (accessed December 3, 2013).

APPENDIX C

Balfour Declaration

Foreign Office, November 2nd, 1917.

Dear Lord Rothschild,

I have much pleasure in conveying to you, on behalf of His Majesty's Government, the following declaration of sympathy with Jewish Zionist aspirations which has been submitted to, and approved by, the Cabinet.

"His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of the object, it being clearly understood that nothing shall be done which may prejudice the civil and religious' rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country".

I should be grateful if you would bring this declaration to the knowledge of the Zionist Federation.

Yours sincerely,

(Signed) Arthur James Balfour

APPENDIX D

United Nations Security Council Resolution 242

November 22, 1967

The Security Council,

Expressing its continuing concern with the grave situation in the Middle East,

Emphasizing the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security,

Emphasizing further that all Member States in their acceptance of the Charter of the United Nations have undertaken a commitment to act in accordance with Article 2 of the Charter,

1. Affirms that the fulfillment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:
 - Withdrawal of Israeli armed forces from territories occupied in the recent conflict;
 - Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;
2. Affirms further the necessity
 - For guaranteeing freedom of navigation through international waterways in the area;
 - For achieving a just settlement of the refugee problem;
 - For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones;
3. Requests the Secretary General to designate a Special Representative to proceed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles in this resolution;
4. Requests the Secretary-General to report to the Security Council on the progress of the efforts of the Special Representative as soon as possible.

APPENDIX E

Palestinian Reform and Development Plan

Table 35: PA Security Reforms

SECTOR: GOVERNANCE

SUB SECTOR: SECURITY

| | | | | | | |
|---|--|---|--|-------------------|-------|--------|
| Program: Security Sector Reform and Transformation | | | Lead : Interior, NSF, PG | | | |
| PNPA Goal: Safety and security | | | Primary objective: Increase professionalism of security services | | | |
| Planned outcomes: Upgraded capacity and capability of security organizations | | | | Development Costs | | |
| Objectives | Indicators | Targets | Projects/Initiatives | 2008 | 2009 | 2010 |
| Improved capability of civil police to deliver on law and order. The Palestinian civil police have efficient and effective capacities and capabilities to ensure internal order | Crime rate | Reduce crime rate by 10% in 2008 and by 5% in 2009/2010 | 1. Training; special protection arrangements for banks, prisons & security services sites 2. Traffic management: provision of special uniforms for police, procurement of vehicles and motorcycles 3. Prison system: establish 7 telecoms stations; establish central computer; rehabilitate 12 police sites | \$6m | \$9m | \$11m |
| | Number of traffic violations | Traffic violations are reduced by 5% per year | | \$2m | \$3m | \$5m |
| | Number of executed court decisions | Increased by 10% per year | | \$3m | \$5m | \$7m |
| Preventive security is capable of providing on time quality information to support law and order | Quantity and quality of intelligence information to prevent crime and disorder | Number of intelligence reports prepared on time increased by 20% annually | 1. Intelligence training; rehabilitation of headquarters, establish admin and security information systems; special intelligence devices and systems | \$3m | \$5m | \$5m |
| The civil defense system is well equipped and developed to ensure safety and protection of citizens, properties and institutions | Response rate to incidents (fire, manmade catastrophes and natural disasters) | Average response time decreases by 10% annually | 1. Training, equipment for the operations room; establish new centers to maximize outreach (20); procurement of vehicles and machines; establish and equip monitoring offices (9) and first aid centers in all locations; procurement of ambulances (10) | \$3m | \$5m | \$6m |
| | Number of establishments committed to safety regulations | Incidents decreases by 10% annually | | | | |
| National security forces is capable of supporting the civil police and other security forces to ensure law and order internally & at borders | Execution of military orders | Execution of military orders increases by 10% per year | 1. Training; rehabilitation of training centers; procure 400 civil and security vehicles; procure telecoms network; establish a military hospital and clinics | \$15m | \$20m | \$25m |
| | Infiltration by disloyal personnel | Reduced by 20% per year | | | | |
| The Presidential Guard is capable of protecting the President and international missions | Number of incidents | Zero defects | 1. Capacity building: training, accommodation, equipment and vehicles | \$6m | \$9m | \$10m |
| Central infrastructure and command & control facilities for security organizations at the district level | Number of district level facilities | 8 Moqata'at constructed | 1. Moqata'at at construction – incl. HQ, detention centers, comms systems, operations rooms, maintenance facilities, storage, small-scale training facilities | \$24m | \$30m | \$40m |
| | | | | | | |
| | | | | | | |
| | | | | \$62m | \$86m | \$109m |

Table 36: PA Justice Reforms

| SECTOR: GOVERNANCE | | | SUB SECTOR: JUSTICE | | | |
|---|--|---|---|--------------|--------------|-----------|
| Program: Justice Now | | | Lead Ministry: Justice, Attorney General, High Judicial Council | | | |
| PNPA Goal: Safety & security, Good governance | | | Primary objective: Strengthen civil and criminal justice system | | | |
| Planned outcomes: An effective justice sector with clear division of responsibilities and separation of powers | | | Development Costs | | | |
| Objectives | Indicators | Targets | Projects/Initiatives | 2008 | 2009 | 2010 |
| Clear and appropriate division of responsibilities and powers of justice sector bodies | Effective sector-wide policy coordination planning mechanisms | Justice sector reform and development strategy developed | 1. Develop and implement strategic plan for justice sector – in consultation with civil society | \$1m | - | - |
| | | | 2. Review of justice sector legal framework and regulations | \$1m | - | - |
| A stable and clearly defined legal framework | Systems and processes for effective review and development of legal framework | Legal information system implemented | 1. Legal information system | \$2m | - | - |
| Safeguard citizens' rights and basic freedoms | <ul style="list-style-type: none"> - Legal framework for protecting human rights - Public complaints systems - Coordination with human rights organizations - Prison inspections | <ul style="list-style-type: none"> - Complete a full review of relevant legislation - Establish complaints system - Establish coordination arrangements - Review and upgrade prison inspections processes | 1. Rights and freedoms review | \$1m | - | - |
| Effective criminal justice facilities | Improved facilities and resources | Establish criminal and forensics labs Establish a criminal records system | 1. Criminal-forensics lab 2. Criminal records system | \$2m \$2m | \$2m \$1m | - - |
| Ensure fair trials in accordance with the time limits and processes defined in law | Reduction in the number of cases outstanding | Reduce judicial overload by 20% per year | 1. Roll-out of MIZAN system 2. Upgrading court infrastructure and equipment | \$1m \$2m | \$1m \$6m | - \$5m |
| | Effective computerized system at Palestinian courts | Computerize and network 100% of Palestinian courts | | | | |
| | Suitable buildings available for legal proceedings | Build 2 courts, develop Bethlehem court, rent additional court space | | | | |
| Judges and other sector staff have the skills, knowledge, and expertise to provide services with integrity, effectiveness, and impartiality | Effective training and technical support arrangements for judges and justice sector staff | Establish effective training and technical support arrangements for judges and other sector staff | 1. Develop capacity of Judicial Institute | \$1m | \$1m | - |
| | | | 2. Technical support unit and training for Attorney General staff | \$1m | \$1m | - |
| | | | | \$14m | \$12m | \$5m |

Table 37: PA Economic Reforms

| SECTOR: ECONOMY | | | SUB SECTOR: ENABLING ENVIRONMENT FOR PRIVATE SECTOR | | | |
|--|---|---|--|--------------|--------------|--------------|
| Program: Institutional Reform for Enterprise | | | Lead Ministry: National Economy, Telecoms & IT, Land Authority | | | |
| PNPA Goal: Increased national prosperity | | | Primary objective: Restore economic growth | | | |
| Planned outcomes: Implement institutional reforms to support economic and social development | | | Development Costs | | | |
| Objectives | Indicators | Targets | Projects/Initiatives | 2008 | 2009 | 2010 |
| Coherent and comprehensive legal and regulatory framework for private sector | Telecoms cost as % of household expenditure | Reduce by 40% | 1. Telecoms regulation 2. Company law and competition law drafting and regulatory capacity-building | \$2m \$3m | \$1m \$2m | \$1m \$2m |
| | Drafting of legislation and regulation | Company law, competition law and telecoms regulations drafted | | | | |
| Land management reform | Percentage of land registered with the Land Authority | Increase the percentage of West Bank land registered with the Land Authority to 60% | 1. Develop and implement effective land administration policy and legislation | \$5m | \$7m | \$7m |
| | | | | \$10m | \$10m | \$10m |

| SECTOR: ECONOMY | | | SUB SECTOR: ENABLING ENVIRONMENT FOR PRIVATE SECTOR | | | |
|---|--------------------|------------------------------------|--|-------|-------|-------|
| Program: Trade Infrastructure and Facilitation | | | Lead Ministry: GACB, National Economy | | | |
| PNPA Goal: Increased national prosperity | | | Primary objective: Restore economic growth | | | |
| Planned outcomes: Facilitate an efficient and competitive export sector | | | Development Costs | | | |
| Objectives | Indicators | Targets | Projects/Initiatives | 2008 | 2009 | 2010 |
| Predictable, timely and efficient movement of goods at crossing points | Total exports | Increase total exports by 15% | 1. Improved institutional arrangements at border crossings – incl. GACB capacity building | \$8m | \$8m | \$8m |
| | Non-Israel exports | Increase non-Israel exports by 30% | 2. Improved infrastructure at border crossings | \$2m | \$2m | \$2m |
| Promoting economic and trade relations with other countries | | | 1. (a) Supporting marketing and export promotion; (b) Implementation of trade agreements; (c) Implementation of Paris Protocol | \$2m | \$2m | \$2m |
| | | | | \$12m | \$12m | \$12m |

| SECTOR: ECONOMY | | | SUB SECTOR: ENABLING ENVIRONMENT FOR PRIVATE SECTOR | | | |
|--|--------------------------------|--|---|-------|-------|-------|
| Program: Enterprise Investment and Development | | | Lead Ministry: National Economy | | | |
| PNPA Goal: Increased national prosperity | | | Primary objective: Restore economic growth | | | |
| Planned outcomes: Increased private sector investment | | | Development Costs | | | |
| Objectives | Indicators | Targets | Projects/Initiatives | 2008 | 2009 | 2010 |
| Increased access to credit, investment finance and capacity-building for MSMEs | MSMEs contribution to GDP | Increase contribution of MSMEs to GDP to XX% | 1. Enterprise learning fund – focus on export-oriented SMEs | \$7m | \$8m | \$9m |
| | MSME employment | Increase by XX% | 2. Micro-finance and micro-credit services for rural and urban entrepreneurs | \$3m | \$3m | \$3m |
| | Average SME establishment size | Increase by XX% | 3. Finance & credit services to encourage establishment of businesses in 'strategic' sectors – e.g., trade services & logistics | \$6m | \$6m | \$4m |
| Better regulation of credit, investment and financial services provided to MSMEs | | | 1. Build PNA capacity to oversee the provision, financial investment and credit services | \$2m | \$1m | - |
| | | | | \$18m | \$18m | \$16m |

| SECTOR: ECONOMY | | | SUB SECTOR: AGRICULTURE | | | |
|---|-------------------------------|-----------------|---|-------|-------|-------|
| Program: Agribusiness Development | | | Lead Ministry: Agriculture, Standards Institute | | | |
| PNPA Goal: Increased national prosperity | | | Primary objective: Restore economic growth | | | |
| Planned outcomes: Increased contribution of the agriculture business to national income | | | Development Costs | | | |
| Objectives | Indicators | Targets | Projects/Initiatives | 2008 | 2009 | 2010 |
| Develop agricultural services sector | Agricultural output | Increase by 15% | 1. Agro-industrial park (Jericho) | \$6m | \$9m | \$9m |
| | Agriculture sector employment | Increase by 10% | 2. Development of post-harvest services sector – processing, packaging, distribution, marketing, export promotion | \$5m | \$4m | \$4m |
| | Agricultural exports | Increase by 25% | | | | |
| Increased efficiency of use of land and other natural resources | | | 1. Rehabilitate farms, orchards & other damaged infrastructure | \$2m | \$3m | \$3m |
| | | | 2. Natural resources conservation and reclamation – land and water | \$3m | \$4m | \$4m |
| Improved sector policy development and regulation | | | 1. Capacity building for Ministry of Agriculture and Standards Institute | \$2m | \$4m | \$4m |
| | | | | \$18m | \$24m | \$24m |

| SECTOR: ECONOMY | | | SUB SECTOR: INDUSTRY & SERVICES | | | |
|--|---|-----------------|--|-------|-------|-------|
| Program: Industrial Capacity Development | | | Lead Ministry: National Economy, Standards Institute | | | |
| PNPA Goal: Increased national prosperity | | | Primary objective: Restore economic growth | | | |
| Planned outcomes: Increased contribution of the industrial sector to national income | | | Development Costs | | | |
| Objectives | Indicators | Targets | Projects/Initiatives | 2008 | 2009 | 2010 |
| Supporting industrial development and modernization | Industrial output | Increase by 15% | 1. Build municipal industrial parks – Tulkarem & Hebron | \$5m | \$6m | \$12m |
| | Industry and services sector employment | Increase by 15% | 2. Build border industrial parks – Jenin & Tarqumiya | \$8m | \$12m | \$20m |
| | | | 3. Capacity building for SME industrial establishments – productive & managerial capacity, quality standards | \$6m | \$5m | \$4m |
| | | | | \$19m | \$23m | \$36m |

| SECTOR: ECONOMY | | | SUB SECTOR: TOURISM | | | |
|---|----------------------------|------------------|---|-------|-------|-------|
| Program: Tourism Industry Development | | | Lead Ministry: Tourism and Antiquities | | | |
| PNPA Goal: Increased national prosperity | | | Primary objective: Restore economic growth | | | |
| Planned outcomes: Increased contribution of the tourism industry to national income | | | Development Costs | | | |
| Objectives | Indicators | Targets | Projects/Initiatives | 2008 | 2009 | 2010 |
| Develop an internationally competitive tourism sector | Tourism sector value added | Increase by 100% | 1. Restoration and preservation of tourism sites | \$5m | \$7m | \$6m |
| | Tourism sector employment | Increase by 100% | 2. Marketing of Palestine as a tourism destination | \$4m | \$3m | \$3m |
| | | | 3. Research & development – database, identify target areas | \$2m | \$1m | \$1m |
| | | | 4. Improving industry regulation | \$2m | \$1m | \$1m |
| | | | 5. Private sector training & capacity building | \$2m | \$2m | \$2m |
| | | | | \$15m | \$14m | \$14m |

| SECTOR: ECONOMY | | | SUB SECTOR: HOUSING | | | |
|---|--|--|---|-------|-------|-------|
| Program: Affordable Housing | | | Lead Ministry: Public Works & Housing, Local Government | | | |
| PNPA Goal: Increased national prosperity, Enhanced quality of life | | | Primary objective: Restore economic growth, Develop social capital | | | |
| Planned outcomes: Increase the stock of affordable housing, promote employment and investment | | | Development Costs | | | |
| Objectives | Indicators | Targets | Projects/Initiatives | 2008 | 2009 | 2010 |
| Meet increasing demand for affordable housing | Housing density | Housing density remains unchanged (despite 4% population growth) | 1. Provide public infrastructure to support a major private-sector led program of housing construction (incl. social housing) | \$10m | \$20m | \$40m |
| | Number of housing units built for low and middle income families | 20,000 units | | | | |
| Rehabilitate damaged housing stock | Number of houses rehabilitated | X houses per year | Repair conflict-damaged houses in West Bank & Gaza | \$5m | \$5m | \$10m |
| | | | | \$15m | \$25m | \$50m |

Table 38: PA Infrastructure Reforms

| SECTOR: INFRASTRUCTURE | | | SUB SECTOR: TRANSPORT | | | |
|---|--|-----------------------------------|---|-------|-------|-------|
| Program: Road Improvement | | | Lead Ministry: Public Works & Housing, Local Govt. Transport | | | |
| PNFA Goal: Increased National Prosperity | | | Primary objective: Restore Economic Growth | | | |
| Planned outcomes: Rehabilitation of road network | | | Development Costs | | | |
| Objectives | Indicators | Targets | Projects/Initiatives | 2008 | 2009 | 2010 |
| A cost-effective and safe road network to support economic and social development | Length of constructed or rehabilitated roads | - Regional, main & access – 200km | 1. Construction/rehabilitation of regional, main & access road network | \$12m | \$12m | \$23m |
| | | - Municipal – 325km | 2. Construction/rehabilitation of municipal road network | \$17m | \$23m | \$35m |
| | Master planning | Master plan developed | 3. Develop Road Master Plan - including capacity-building (incl. maintenance capacity) and feasibility/design work for main roads (Nablus-Jenin, Gaza Coastal, Wadi Al Nar) | \$3m | \$5m | \$2m |
| | | | | \$32m | \$40m | \$60m |